

## **PART 2 ATTACHMENTS**

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# ATTACHMENT 2A1

## FEDERAL LABOR RELATIONS AUTHORITY OFFICE OF THE GENERAL COUNSEL REGIONAL OFFICES

*FLRA Regional Offices, located in the following areas, serve over 2.1 million Federal employees worldwide:*

### **ATLANTA REGIONAL OFFICE**

225 Peachtree Street, Suite 1950  
Atlanta, GA 30303-1203  
(404) 331-5300  
Fax: (404) 331-5280

#### **Jurisdiction**

Alabama, Florida, Georgia, Mississippi,  
South Carolina, U.S. Virgin Islands

### **CHICAGO REGIONAL OFFICE**

55 West Monroe Street, Suite 1150  
Chicago, IL 60603-9729  
(312) 886-3465  
Fax: (312) 886-5977

#### **Jurisdiction**

Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota  
North Dakota, Ohio, Tennessee, Wisconsin

### **DENVER REGIONAL OFFICE**

1391 Speer Boulevard, Suite 300  
Denver, CO 80204-3581  
(303) 844-5224  
Fax: (303) 844-2774

#### **Jurisdiction**

Arizona, Colorado, Kansas, Missouri, Montana,  
Nebraska, South Dakota, Utah, Wyoming

### **WASHINGTON REGIONAL OFFICE**

1400 K Street, NW, 2<sup>nd</sup> Floor  
Washington, DC 20424-0001  
(202) 357-6029  
Fax: (202) 482-6724

#### **Jurisdiction**

Delaware, District of Columbia, Maryland,  
North Carolina, Virginia, West Virginia, All land  
and water areas east of the continents of North and  
South America to long. 90 degrees East, except the  
Virgin Islands, Panama, Puerto Rico and coastal islands

### **BOSTON REGIONAL OFFICE**

Thomas P. O'Neill, Jr. Federal Building  
10 Causeway Street, Suite 472  
Boston, MA 02222  
(617) 424-5730  
Fax: (617) 424-5743

#### **Jurisdiction**

Connecticut, Maine, Massachusetts,  
New Hampshire, New Jersey, New  
York, Pennsylvania, Rhode Island,  
Vermont, and Puerto Rico

### **DALLAS REGIONAL OFFICE**

525 South Griffin Street, Suite 926,  
LB 107  
Dallas, TX 75202-1906  
(214) 767-4996  
Fax: (214) 767-0156

#### **Jurisdiction**

Arkansas, Louisiana, New Mexico, Oklahoma  
Texas, and Panama (limited jurisdiction)

### **SAN FRANCISCO REGIONAL OFFICE**

901 Market Street, Suite 220  
San Francisco, CA 94103-1791  
(415) 356-5000  
Fax: (415) 356-5017

#### **Jurisdiction**

Alaska, California, Hawaii, Idaho,  
Nevada, Oregon, Washington, and  
all land and water areas west of the  
continents of North and South  
America (except coastal areas) to  
long. 90 degrees E

# ATTACHMENT 2A2

## SAMPLE ORDER TRANSFERRING CASE

UNITED STATES OF AMERICA  
FEDERAL LABOR RELATIONS AUTHORITY  
( ) REGION

(Agency Name)  
Charged Party

and Case No. ( )

(Charging Party's Name)  
Charging Party

## ORDER TRANSFERRING CASE

Pursuant to 5 C.F.R. § 2429.2, in order to effectuate the purposes of the Federal Service Labor-Management Relations Statute and to avoid unnecessary costs or delay, this case is transferred for further proceedings from the \_\_\_\_\_ Regional Office to the \_\_\_\_\_ Regional Office. Any inquiries about this case after this date should be addressed to the Regional Director of the Region to whom this case is being transferred:

\_\_\_\_\_(Name)  
Regional Director, ( )Region  
(Address)  
(Tel. #)

\_\_\_\_\_(Name)  
Regional Director, ( )Region  
(Address)

DATED: (date)

## ATTACHMENT 2B1

### SAMPLE LETTER RETURNING DEFICIENT CHARGE TO CHARGING PARTY

(DATE)

(Charging Party)  
(address)

Dear Mr./Ms. (Name)

I am returning the unfair labor practice charge (enclosed) that you sent to this Office which is dated (date). A Charging Party is required to complete every box on the form before a Regional Office considers it appropriate to docket and file the charge. See 5 C.F.R. § 2423.4. In your case, I have determined that your charge is deficient because you have (insert case specific deficiency, e.g., failed to identify the Charged Party; failed to sign the charge form in the appropriate box). Specifically, you must (insert appropriate action to cure deficiency, e.g., clearly identify the Charged Party in the appropriate space of the Charge Form (Form 22 enclosed); sign the charge form at the bottom in box #8) and send the charge to this Regional Office where it will be docketed and filed. In completing these actions you are reminded of the time requirements for filing a ULP charge--absent certain exceptions--a charge must be filed within six months of the event which is alleged to be a ULP. Section 7118(a)(4) of the Federal Service Labor-Management Relations Statute contains this time limitation.

If you have any questions concerning this letter or any other aspect of the ULP procedure or would like assistance, feel free to call this office at the above telephone number.

Very truly yours,

Regional Director

enclosures

## ATTACHMENT 2B2

### MODEL UNIFORM OPENING LETTER

#### ON LETTERHEAD

Date

Charging Party Rep's Name and Address

Charged Party Rep's Name and Address

Re: Charged Party  
City, State  
Case No. XX-CX-XXXXX

Dear (Names of Charging and Charged Party Representatives):

Enclosed is a copy of the unfair labor practice charge which has been filed with this Office and assigned the case number shown above. To complete the investigation expeditiously, and to make a determination as to the merits of the charge, it is important that the parties cooperate fully during the ensuing investigation of the charge. You will be contacted shortly by the Agent who has been (will be) assigned to investigate the charge. If you have any questions, please contact directly either the Agent or Regional Point of Contact indicated below.

If you are the party who filed the charge (Charging Party) and have not already done so, please submit the following so that it is **received** by this Office by **(insert 10 days from date of letter)**:

1. A list of witnesses – names, positions, day and evening telephone numbers, and a summary of their expected testimony about their personal knowledge of the charge.
2. Copies of all relevant documents, with an Index if submission is voluminous.

Section 2423.4(e) of the FLRA's Regulations requires that you provide this evidence/information. If you did not submit any evidence or information when you filed the charge and do not provide the material noted above so that this Office has **received** it by **(insert 10 days from date of letter)**, the charge may be dismissed for lack of cooperation. The Charging Party is responsible for confirming that all supporting evidence and information has been received by the date noted above.

If you are the party against whom this charge is filed (Charged Party), you are

requested to review the allegations in the charge and submit a written position to this Office. You also are expected to cooperate fully in the investigation and will be asked by the Agent to supply documentary evidence or witnesses as is deemed necessary.

If someone other than you will be representing your party in this matter, please complete the enclosed "Notice of Designation of Representative." [OPTIONAL INCLUSION] To assist both parties in understanding how an unfair labor practice charge is processed, I have enclosed information describing the investigatory process and Alternative Dispute Resolution Services provided by the OGC.

The General Counsel encourages the informal resolution of unfair labor practice charges and the assigned Agent is available to assist the parties in resolving this matter.

Sincerely,

Regional Director

Assigned Agent or Regional Point of Contact: (Name, phone number, e-mail address)

Enclosed: Description of Unfair Labor Practice Investigation Procedure (Optional)  
Alternative Dispute Resolution Services Q&As (Optional)  
Notice of Designation of Representative

# ATTACHMENT 2B3

## DESCRIPTION OF THE UNFAIR LABOR PRACTICE INVESTIGATION PROCEDURE

### ***What happens after a charge is received by a Regional Office?***

After a charge is received, it is docketed and given a case number. An opening letter is then sent to both parties with a copy of the charge, a notice of designation of representative form, and an information sheet on alternative dispute resolution services. Both parties are informed of their obligations to cooperate fully in the investigation and are encouraged to resolve informally the dispute that gave rise to the charge.

### ***Can the charge be transferred to a different Regional Office?***

Yes. Occasionally, when necessary to avoid unnecessary costs or delay and to effectuate the purposes of the Statute, a charge may be transferred to a different Regional Office. The charge is processed in the same manner regardless of the Region processing the charge.

### ***When will I first speak with the Agent?***

Soon after the charge is filed, the assigned Agent contacts both parties and: (1) clarifies the allegation(s) in the charge; (2) describes each party's obligation to cooperate in the investigation; (3) reviews each party's testimonial and documentary evidence; (4) explains how the case will be investigated; and (4) clarifies and determines whether official time is needed for any employees.

### ***Will the Agent assist the parties in resolving the dispute that gave rise to the charge?***

Yes. The General Counsel encourages the informal resolution of unfair labor practice allegations subsequent to the filing of a charge and prior to the issuance of a complaint by a Regional Director. A representative of the appropriate Regional Office, as part of the investigation, assists the parties in informally resolving their dispute. The charge may be resolved and withdrawn by the Charging Party at any stage of the investigation. More information is contained in the ADR Services questions and answers.

### ***How will the charge be investigated?***

The Regions utilize a variety of investigative techniques to obtain the best possible, relevant evidence. The investigation may involve: (1) an on-site visit and the taking of signed and affirmed affidavits and the gathering of documents; (2) the taking of affidavits over the telephone; (3) parties filling out signed and affirmed questionnaires; and (4) letters or emails confirming information discussed telephonically. The RD relies upon this evidence in deciding whether or not the ULP charge has merit. Agencies are always notified before an Agent visits the workplace.

### ***When are employees entitled to official time?***

Employees deemed necessary by the Region to give evidence during the investigation are granted official time under section 7131(c) of the Statute. Employees requested to complete a questionnaire and to review a telephone affidavit also are entitled to reasonable official time. The Agent arranges such time with the agency. Official time to gather information during the course of the investigation depends upon the parties' contract and past practices and does not involve Regional Office authorization.

### ***How do the parties cooperate with the Region during an investigation?***

Cooperation includes, as determined by the Regional Director: (1) making union officials, employees and agency supervisors and managers available to give sworn/affirmed testimony regarding matters under investigation; (2) producing documentary evidence pertinent to the matters under investigation; and (3) providing statements of position in the matters under investigation.

### ***What happens if a party does not cooperate in the investigation?***

A Charging Party's failure to cooperate could result in a dismissal of the charge for lack of cooperation. A Charged Party's failure to cooperate, as requested, could result in the issuance and enforcement of an investigative subpoena.

***When is an investigation completed?***

An investigation is completed when each party has been given a reasonable opportunity to provide relevant evidence and there are sufficient facts for the Regional Director to render a decision on the merits of the charge.

***What happens if the Regional Director determines that the charge does not have merit?***

If the Regional Director determines that the charge does not have merit and therefore should be dismissed, the Charging Party is afforded a brief opportunity to withdraw the charge without issuance of a written dismissal. If the charge is not withdrawn or is not withdrawn promptly, a written dismissal issues and is served on the parties. The dismissal letter describes the allegation(s), the facts disclosed during the investigation, the applicable law and the reasoning upon which the Regional Director's decision to dismiss is based.

***Can that dismissal decision be appealed?***

Yes. A dismissal is appealable to the Office of the General Counsel in Washington, D.C. The General Counsel may deny the appeal and close the case or remand the case for further investigation or issuance of a complaint. The General Counsel's decision to deny an appeal and close a case is not subject to review.

***What happens if the Regional Director determines that the charge has merit?***

If the Regional Director determines that the evidence supports issuance of a complaint, the Region, as the public prosecutor, attempts to settle the charge prior to issuance of a complaint and notice of hearing which schedules the matter for trial before a FLRA Administrative Law Judge. The complaint sets forth the allegations to be prosecuted and is served on all parties to the charge.

## **ATTACHMENT 2D1**

### **SAMPLE E-MAIL NOTICE TO ALL REGIONS OF CHARGE THAT MAY HAVE NATIONWIDE IMPLICATIONS**

To: All RDs, RAs/DRD, Lit. Specialists

From: RD/RA/DRD

Subject: Agency, Case No. , docketed (date)

Date:

The Union is alleging that the Agency violated the Statute when its internal audit people conducted interviews with bargaining unit employees in the State of New Jersey without affording the union an opportunity to be represented and/or without honoring the request of the employees for union representation. These meetings were held in connection with recent criticism lodged against the IRS to determine if employees were being pressured to engage in inappropriate behavior or had knowledge of such behavior. Follow-up interviews were held with these employees for the purpose of comparing their answers at each interview. We have completed our investigation and are likely to issue complaint alleging formal discussion and Weingarten violations. The Agency's position is that its audit employees were only taking a survey of opinions within the bounds of the law.

The Agency's conduct may not be limited to the State of New Jersey. If any similar cases arise in your regions, we need to coordinate our litigation efforts. Please notify me by e-mail (copy to the Deputy General Counsel) whether or not you have any pending related cases. By FAX, I am sending you the charge in this case.

# ATTACHMENT 2G1

## ELEMENTS OF COMMON VIOLATIONS

### Violations of section 7116(a)(1) and (8) of the Statute:

#### FORMAL DISCUSSION - Section 7114(a)(2)(A) of the Statute

An exclusive representative has the right to be present at:

- Discussion that was—
  - Formal (was meeting scheduled in advance; whether employees were required to attend; whether management officials above employees' first line supervisor attended; whether the meeting was held outside the regular work area; whether the meeting had an agenda, the duration of the meeting; whether minutes were taken of the meeting)—
  - Between 1 or more Agency representatives and 1 or more unit employees or their representatives—
  - Concerning any grievance or any personnel policy or practice or other general condition of employment.

See, e.g., *F.E. Warren Air Force Base, Cheyenne, Wy.*, 52 FLRA 149, 155 (1996).

#### WEINGARTEN VIOLATION - Section 7114(a)(2)(B) of the Statute

An exclusive representative has the right to be present at:

- Examination of a unit employee in connection with investigation;
- By a representative of the Agency;
- Employee reasonably believes that examination may result in disciplinary action against employee; and
- Employee requests representation

See, e.g., *Headquarters, NASA, Wash., D.C.*, 50 FLRA 601, 606-22 (1995) (finding of violation against Headquarters where it is responsible for actions which affect one of its subcomponents), enforced sub nom. *FLRA v. NASA, Wash., D.C.*, 120 F.3d 1208 (11th Cir. 1997), affirmed sub nom. *NASA v. FLRA*, 119 S. Ct. 1979 (1999).

### Violation of section 7116(a)(1), (5) and (8) of the Statute:

#### DATA INFORMATION - Section 7114(b)(4)

To the extent not prohibited by law (e.g., the Privacy Act), an exclusive representative has the right to receive data from the agency, upon request, which is:

- Normally maintained;
- Reasonably available;
- Necessary

union's particularized need weighed, if applicable, against agency's countervailing interest; and

- Information requested **must not** be guidance, advice, counsel, or training for management officials relating to collective bargaining.

See, e.g., *DHHS, SSA, NY Region, NY, NY*, 52 FLRA 1133, 1139-50 (1996).

**Violation of section 7116(a)(1) and (2):**

- Unit employee against whom the alleged discriminatory action was taken was involved in protected activity; and
- Such activity was a motivating factor in the Agency's treatment of the employee in connection with hiring, tenure, promotion, or other conditions of employment

and

**after GC meets burden, Respondent does not show, as an affirmative defense, that:**

- There was a legitimate justification for its action; and
- The same action would have been taken even in the absence of protected activity.

*See, e.g., United States Air Force Acad., Colorado Springs, Colo.,* 52 FLRA 874, 878-79 (1997) (citing *Letterkenny Army Depot*, 35 FLRA 113 (1990)).

**Violation of section 7116(a)(1) and (5):**

**UNILATERAL CHANGE IN CONDITIONS OF EMPLOYMENT:**

- Without regard to the contract, the Agency gave no notice and opportunity to bargain over a change in condition of employment,

and

- Change had more than de minimis impact on unit employees' conditions of employment--consideration of nature and extent of the effect (e.g., temporary or permanent, major or minor) or reasonably foreseeable effect of the change

**if established, consider whether Respondent has established "covered by" affirmative defense**

*See, e.g., GSA, Region 9, San Francisco, Cal.,* 52 FLRA 1107, 1111 (1997); *Air Force Materiel Command, Warner Robins Air Logistics Ctr., Robins Air Force Base, Ga.,* 53 FLRA 1092, 1093 (1998) (rejection of "covered by" affirmative defense).

**REPUDIATION OF THE PARTIES' AGREEMENT:**

- Nature and scope of the alleged breach of agreement (i.e., was the breach clear and patent); and
- Nature of the agreement provision allegedly breached (i.e., did the provision go to the heart of the parties' agreement).

*See, e.g., Department of the Air Force, 375th Mission Support Squadron, Scott Air Force Base, Ill.,* 51 FLRA No. 72, 51 FLRA 858, 861-62 (1996) (citing *Department of Defense, Warner Robins Air Logistics Ctr., Robins Air Force Base, Ga.,* 40 FLRA No. 106, 40 FLRA 1211 (1991)).

**Violation of section 7116(a)(1):**

The standard for determining a violation:

Whether, under the circumstances, the Agency's statement or conduct would tend to coerce or intimidate the employee, or whether the employee could reasonably have drawn a coercive influence from the statement.

*See, e.g., U.S. Dep't of Agric., U.S. Forest Serv., Frenchburg Job Corps, Mariba, Ky.,* 49 FLRA 1020, 1034 (1994).

**INVESTIGATING AN ALLEGED MID-TERM CHANGE:**

## **SAMPLE QUESTIONS**

To the charging party and witnesses:

### **Grievances:**

Has a grievance been filed which is any way related to this dispute? In writing?

### **The change:**

What was the alleged change? When did it occur? When did you first learn of the change? Do you have a practice and/or contractual procedure which requires notice and/or a settlement effort before a charge is filed? Why the delay in filing the charge after learning of the change?

### **Implementation:**

Was the change implemented or announced by a written document, for example, by memorandum? Do you have a copy? When and how did you or the union receive or become aware of this writing? Who else might have a copy if you don't? Can you point up the change as it appears in this writing? Was the announcement or implementation oral? Who was present? How were you informed if you weren't present? What was said?

### **Collective bargaining agreement(s):**

Please provide a copy of the applicable collective bargaining agreement(s)? Is the change here at issue related to anything in the collective bargaining agreement(s)? How is the Union usually informed of such matters? Are you claiming that the collective bargaining agreement was violated or repudiated? How?

### **Negotiations/discussions at other levels:**

Have Union and Agency management representatives above the local (or below the national) level discussed and/or negotiated concerning this issue? What is the relationship between those discussions and/or negotiations and this dispute?

### **Impact:**

How are employees affected by the change? Will they be doing different work or be expected to do more? Will they perform higher or lower graded work or work for which they are unsuited? Will they have different starting or quitting times, be away from their usual colleagues, or work in unusual, variable, or out of the way locations? Under differing supervision? Is there an impact outside of their work hours?

### **Contacts between the parties:**

Have you raised an issue about the change with Agency management, in writing or orally? Any documents exchanged? If there were oral contacts, when did they occur, who was present and what was said? Did you ask for information? Did you request bargaining? Were you asked to provide proposals? What were the proposals? What was management's reaction? Are any further exchanges in writing or meetings planned? Do you need and desire settlement assistance?

**Resolution desired:** What settlement do you seek?

To the Charged Party

The Union is claiming that \_\_\_\_\_.

### **Change:**

Has there been a change? A change which affects employees' conditions of employment? A change which doesn't affect conditions of employment?

### **Implementation:**

If there was any change, how and when was the change implemented? In writing? Can you provide a copy? Orally? Who made the announcement, to whom? Can I speak to that person? Under what circumstances? Is there a unusual practice for notification? Was this practice followed? Any reason for a different practice on this occasion? Did the Union respond? Was a response requested?

**Impact:**

Any affect on what work is performed, or when, where, how, or by whom it is performed? Any change in employee supervision or the manner in which employees will be appraised? Any change in employees' physical working conditions? A change in employees' contact with other employees or other persons?

**Settlement discussions:**

Have management and union representatives discussed this issue? When? Who was present? Are the discussions continuing? Has management requested or received Union proposals? A management response?

Contact with management officials and supervisors: May we speak to the management officials and/or supervisors who were directly involved in the action which is being complained of. What would induce you to allow us to have such discussions?

**Scope of bargaining issues and procedures:**

Have you claimed that the subject is outside of your duty to bargain under the Statute? In writing? Were there any other exchanges in writing between the parties connected with this dispute?

**INVESTIGATING AN "EXAMINATION" OR "WEINGARTEN" SITUATION:  
SAMPLE QUESTIONS**

**Meeting:**

When did the meeting occur? Who initiated the meeting? Who was present? Was the employee and/or Union informed in advance? How? Was anything said before or during the meeting about the presence of a Union representative? Who said what on that subject? Was it done in writing?

**Subject:** What was discussed? Was that known in advance? Was the employee questioned? About the employee's work, conduct or behavior? About others' work, conduct or behavior?

**Implications:** Was anything said about discipline for anyone? For this employee or any other employee? Was the employee told that he or she had to answer the questions or that they must answer honestly? Was anything said about immunity from discipline for anyone? Are employees disciplined for the matters discussed at the meeting? How severe is the penalty, if any? Has discipline been proposed or imposed on anyone in connection with the matters discussed at the meeting?

**Representation:** Did the employee say or write anything before or during this meeting about his or her need or desire for Union assistance or Union representation? Concerning any assistance or representation? Did management's representatives respond? Any back and forth on this subject? Was the meeting delayed for this purpose? For how long? When and how was the union informed of the need for representation, if any? Do the parties have a common practice for these situations? How did it work here? Anything special or unusual about this situation?

**Further investigation:**

Who else has direct knowledge of this situation? May we speak to them directly? Does any written record exist for what happened before, during, or as a result of this meeting?

## **Investigating an Allegation of “Discrimination”: SAMPLE QUESTIONS**

### **Charging Party**

#### **Management’s Action:**

What management action is being complained of? When, how, where, and by whom was the action implemented or announced? Who was affected? How? What explanation was given, if any? Do you know of any records that exist or may exist which would show whether the action was or was not justified?

#### **Protected Activity (to Union representatives and employee witnesses):**

Have any employees affected by the action been acting as Union representatives or been represented by the Union? Have they been promoting Union activity or trying to induce employees to engage in such activities? What were those activities? When did they take place? Does a written record of such activities exist? Were meetings involved? What was the subject of the meetings? Who was present? To your knowledge, what management officials were involved? How were they involved? Were the management officials involved in the action complained of affected by these employee activities? Directly? Indirectly?

Is there any reason why the management officials taking the action might be sensitive to the employee’s protected activity, because of what they’ve done, how they did it, or behaved? Have these people, management officials and employees, had difficulties with each other?

#### **Management’s action and animus:**

Did these management officials complain of the affected employees’ protected activities, to you or anyone else, orally or in writing? What comments? By whom? When?

#### **Other explanations for the actions:**

Have these management actions or like actions been taken concerning the affected employees at other times? When? What explanations, if any, were given? Are there any explanations for the actions other than the explanation in your charge? Do you know of, or can you think of, any other explanation?

### **Charged Party**

Management’s action: The Union is referring to \_\_\_\_\_ and is alleging that this action was taken in retaliation for employees’ protected activity. Can you furnish the written record(s) used to justify the action, if any, and any written record of the action itself? Can I speak with and take information from the management officials directly involved?

What action was taken? When? Who was affected? What explanation has been given or is being given for the action? Has this action or similar actions been taken for these employees at other times? When? Any written records? Who would explain the basis for the action?

#### **Employees’ protected activities:**

What management officials were involved in the employees’ protected activities, by being affected by the employees’ protected activities or while acting as representatives for management? What other experiences have these management officials had in dealing with these employees, other employees, or Union representatives on these or related matters? Any other contacts of this type at all? Does any written record exist concerning these matters? Any witnesses?

#### **Animus:**

Were any oral or written comments made to the affected employees or others regarding their protected activities? Is there any reason why the management officials taking the action might be sensitive to the employee’s protected activity because of what the employees did, how they did it, or the way they behaved? Have these people, management officials and employees, had difficulties with each other?

## **INVESTIGATING AN “INFORMATION” ALLEGATION: SAMPLE QUESTIONS**

### **Information request:**

What information or data was requested? Was the request made orally or in writing? When was the request made? Who made the request? To whom was the request made? Was this request made the way requests are usually made? Anything unusual about the request here?

Why is the Union making this request? What is the representation issue? How would this information, if furnished, help the Union with the representation issue? How does the Union expect to use this information? Was this explained to management, orally or in writing, when the request was made? In conjunction with or separate from the information request?

If the information concerns individual employees and the identity of the employees could be determined from the information supplied, by name, social security number, or other means, did the Union ask that the information be supplied with this data? Without such data? If the Union asked for the information with the personal identifier data included, did the Union explain why it needed the information in that form? As compared to getting the information without such data?

### **Management response:**

Did management respond to the request, orally or in writing? Did management ask for a clarification of what was being asked for? Did it ask for an explanation or clarification on why the Union needed this information or why the Union needed the information in the form in which it was requested? With or without personal identifiers?

Did management inquire into how the Union planned to use the information? Did management object to furnishing the information for any reason; for example, any of the reasons it could refer to under section 7114(b)(4)? What reasons? What rationale has management given or will it give to support this response?

If the information does contain personal identifiers data, is this information maintained in a system of records in accordance with the Privacy Act? What system of records? What are the “routine uses?” Is the Union a routine user?

Union response to management: Has the Union responded in any way to management’s response to the request? Orally or in writing? Can the Union adjust or narrow its request so that it meets management’s concerns or objections and still satisfy the Union’s informational need? Has the Union made such an effort? Has it been communicated to management?

### **Discussions and negotiations:**

Have one or both parties attempted to work out any disagreement(s) they may have about the request? Can management suggest a method for adjusting the request or its response to satisfy its concerns or objections and the Union’s informational needs?

## **INVESTIGATING AN INDEPENDENT STATEMENT CASE OR (A)(1) VIOLATION: SAMPLE QUESTIONS**

### **Independent (a)(1) violations:**

An independent (a)(1) violation arises when a statement is made by a management official or supervisor orally or in writing which expressly or impliedly interferes with, restrains, or coerces any employee in the exercise by the employee of any right under the Statute. Statements which are not seen or heard and statements made by persons who lack influence over employees do not interfere with, restrain, or coerce employees.

### **Written statement:**

What is the written statement? Do you have a copy? Who wrote the statement? What is their position? Did someone else originate the statement or require or influence its writing? What is their position? How did you come to have a copy? Who else may have a copy? How was the statement distributed, if at all? Was it intended to be made available to a select group? Was it posted on a bulletin board? Who knows of the statement’s existence and its contents? How did they come to know?

Was the statement in response to an action or statement by others? What action(s) or statement(s)? Has anything occurred regarding the statement's contents since it was made?

**Oral statement:**

What was said? When? Who was present? Is it possible that someone not present heard the statement? Someone near the area or who may have been passing by? How do you know of the statement if you were not present? How did others, if any, come to learn of what was said? Who made the statement? Was there anything in their statement, their behavior, or the context to suggest that they were speaking for themselves or others? Was the statement made in reaction to what others said or did? What may have been said or done? Has anything occurred regarding the statement's contents since it was made?

**Purpose or effect:**

What is there in the context, when the statement was made, to explain its meaning? A history? What is the best interpretation of this statement that you could give, in favor of the writer or speaker? If the purpose or effect complained of is not readily apparent from the writing or what was said, how do you account for or explain that purpose or effect?

What is the problem with this statement? From your point of view? From others' point of view?

**Remedy:**

What would remedy your complaint about this statement? How would you implement the remedy? Will this remedy improve or harm the parties' relationship in any way?

# ATTACHMENT 2H1

## SAMPLE LETTER RE: AMENDMENT OF CHARGE

(Date)

Charging Party Rep.  
(Name and address)

Re: Case Name and Case Number

Dear Mr./Ms. (Name):

Pursuant to our telephone conversation of (date), enclosed is the (First) Amended Charge in this case. In addition to the original allegations, you intend to (state added allegations or correction of errors). Please sign and date the amended charge and return it as soon as possible. A copy must be served on the Charged Party. If you have any questions, please contact me at (telephone #).

Sincerely,

Field Agent  
Region (       )

# ATTACHMENT 2J1

## SAMPLE LETTER DEFERRING ULP CHARGE DURING PENDENCY OF REPRESENTATION PETITION

(Date)

Charging Party Rep.  
(Name and Address)

Charged Party Rep.  
(Name and Address)

Re: Case Name and Case Number

Dear Mr./Ms. (Name) & Mr./Ms. (Name):

This Office docketed the captioned unfair labor practice (ULP) charge on (date). Also pending at this time is a representation petition, (case name and case number) which has an issue that is related to the issue underlying the ULP charge. Because the processing of the representation case will resolve a significant issue that will impact on the processing of the ULP charge, it best effectuates the purposes and policies of the Federal Service Labor-Management Relations Statute to defer processing the ULP charge until the representation proceedings are completed. In this way, both matters will not be processed simultaneously thus avoiding a duplication of efforts. Upon completion of the processing of the related representation case, the Regional Office will (continue to) process the ULP charge.

Sincerely,

Regional Director, Region ( )