



Box 25287, Alexandria, VA 22313

July 8, 2025

Ms. Sonya Penn
Acting Director of Labor Relations
Office of Human Resources
Mail Stop 13
United States Patent and Trademark Office P.O. Box 1450
Alexandria, VA 22313-1450
by electronic mail: lrgrievance@uspto.gov

Re: Grievance Docket No. 07-08-2025-POPA-04

Dear Ms. Penn:

This is an Association grievance filed pursuant to Article 13, § 6 of the parties' 2024 collective bargaining agreement over the failure to grant all unit employees early dismissal for the Memorial Day holiday on May 23, 2025, and for the Independence Day holiday on July 3, 2025.

1. Contractual violations:

According to information provided to us by the Agency, 156 of 212 unit employees who were working on campus on May 23 were granted the customary two hours of administrative leave, while only 43 of 6,788 unit employees who were reported to be teleworking that day were granted early dismissal. On July 2, the Acting Commissioner of Patents sent employees an email explicitly stating that only those assigned to and report in-person to a USPTO office would be granted early dismissal on July 3.

1. The failure to grant all unit employees early dismissal before the Memorial Day and Independence Day holidays violates a past practice that has been in effect for at least ten years.

2. The failure to grant all unit employees early dismissal before the Memorial Day and Independence Day holidays as it has been done for at least the past ten years was a unilateral change in conditions of employment that:

a. constitutes an unfair labor practice in violation of § 7116(a)(1) and (5) of the Federal Service Labor Management Relations Statute; and

b. a violation of Article 16, §§ 2, 3, and 8,

because management failed to provide the Union with notice and an opportunity to engage in pre-decisional discussions and impact and implementation bargaining before making the change.

3. The granting of early dismissal to some, but not all bargaining unit employees violates Article 5, § 5 of the collective bargaining agreement which provides that “[e]mployees will be treated equitably and fairly by management.” See *Social Sec. Admin., Baltimore, Maryland*, 58 F.L.R.A. 630, 631 & n. 2 (2003) (denying exceptions to award of arbitrator who found that granting administrative leave to some, but not all unit employees before Christmas holiday violated contract provision that provides that “all employees shall be treated fairly and equitably in all aspects of personnel management.”)

4. While the overwhelming number of bargaining unit employees who were working on campus on May 23 were granted early dismissal, less than 1% of teleworking bargaining unit employees were granted early dismissal. Only those employees who were working at a USPTO Office on July 3 were granted early dismissal. This constitutes a violation of:

a. Section III.H.1.e of the February 7, 2022 “Patents Full-Time Telework Program” agreement and Section III.E.1.d of the February 7, 2022 “Patents Partial Telework Program” agreement, which provide:

Administrative leave for early/immediate dismissal not due to emergency or weather conditions, such as dismissals prior to a Federal holiday, will be granted to participants working at the approved alternate worksite.

b. the Telework Enhancement Act of 2010, Pub. L. No. 111-292, which provides that:

the head of each executive agency shall ensure that –

* * *

(3) teleworkers and nonteleworkers are treated the same for purposes of—

* * *

(C) work requirements; or

(D) other acts involving managerial discretion;

5 U.S.C. § 6503(a).

5. On information and belief, early dismissal was uniformly granted to employees of the USPTO who were not bargaining unit employees. This discriminates and interferes with employees' right to unionize and constitutes an unfair labor practice in violation of § 7116(a)(1) and (2) of the Federal Service Labor Management Relations Statute. There is no rational basis to grant supervisors early dismissal but not their subordinates.

As relief, we demand that every full-time unit employee who was on duty for at least four (4) hours, who was not granted early dismissal on May 23, 2025 and/or July 3, 2025 be granted two hours of administrative leave for each day to be taken at a time approved by their supervisor. We further demand that every part-time unit employee who was on duty and scheduled to work five (5) or more hours be granted one (1) hour of administrative leave for each day to be taken at a time approved by their supervisor, and that every part-time unit employee who was on duty and scheduled to work six (6) or more hours be granted two (2) hours of administrative leave for each day to be taken at a time approved by their supervisor. In addition, we demand that the USPTO restore its past practice of granting early dismissal before each Federal holiday, including the upcoming Labor Day holiday, and that any unit employee who is not granted early dismissal before the Labor Day holiday and any ensuing holiday until this grievance is resolved be granted the number of hours of administrative leave customarily and historically granted to unit employees before said holiday, to be taken at a time approved by their supervisor. And, because OPM regulations include "leave" as an element of back pay within the meaning of the Back Pay Act, 5 C.F.R. part 550.803, the Union also demands its attorney fees incurred in the presentation and prosecution of the grievance.

Sincerely yours,

Irakli Kiknadze

July 8, 2025

Irakli Kiknadze

Director of Grievances

ikiknadze@popa.org