

February 29, 1988

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THIS DOCUMENT IS SUBJECT TO A COURT ORDER AND THIS DOCUMENT AND ITS CONTENTS SHALL NOT BE USED, SHOWN OR DISTRIBUTED EXCEPT AS PROVIDED IN THE COURT'S ORDER.

**MEMORANDUM**

To: Bob Lewis

From: Susan Stuntz *MS*

Re: AFGE Grievance on HHS Smoking Ban

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You will recall that last summer the president of a local American Federation of Government Employees (AFGE) chapter representing workers at the Department of Health and Human Services called us for expert assistance in arbitrating the HHS smoking regulations being implemented under the GSA guidelines.

We provided ACVA's Simon Turner for an August hearing on the issue; the hearing was abruptly cancelled when HHS unilaterally imposed a smoking ban without bargaining with AFGE. AFGE filed an unfair labor practices charge with the Federal Labor Relations Admin. FLRA ruled recently that there is cause to believe an unfair labor practice had been committed.

A hearing on the matter -- before an Administrative Law Judge -- will take place Wednesday at FLRA headquarters. HHS witnesses, which will include Surgeon General Koop, will argue that HHS, as the nation's public health advisor, has a compelling need to ban smoking. A copy of the HHS argument is attached for your information.

We met again today with the AFGE president who is handling this case. We have offered him expert witnesses in Simon Turner and Larry Holcomb. Mike Forscey will accompany them to a meeting at the FLRA tomorrow, to prepare for the Wednesday hearing.

We'll keep you posted. Please let me know if you've questions.

**Attachment**

cc: Bill Kloepfer  
Peter Sparber  
Rita O'Rourke  
Debbie Schoonmaker

TI DN 0019119

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