

TRANSCRIPTION OF REPLY BY MORRIS WINN TO STEP 1 GRIEVANCE
By Bill Hirzy

MEMORANDUM

April 22, 2002

SUBJECT: Response to Step 1 Grievance on Professional Ethics

FROM: Morris X. Winn /s/ by Jane Moore for MXW
Assistant Administrator

TO: J. William Hirzy
Senior Vice-President

Your grievance of March 15, 2002 to the Deputy Administrator has been sent to me for appropriate reply as will future grievances raising matters within the purview of the Office of Administration and Resources Management. I apologize for the delay in responding to the grievance; however, wanted to very thoughtfully and fully understand your concerns before I forwarded my response to you.

Your grievance raises the Agency's commitment to quality science and the union-management partnered Principles of Scientific Integrity and references an alleged conversation between an unidentified employee and an unidentified supervisor regarding professional ethics. As a remedy, your grievance requests that the Agency Administrator issue a specified statement to all employees that is attached to the grievance and convene a work group, chaired by NTEU Chapter 280 to prepare a plan for complete implementation of the Principles of Scientific integrity across the Agency.

Before formally reply to the grievance, let me state that I agree with your statement that management and staff must adhere to the Principles of Scientific Integrity. Let me also assure you that the agency is strongly committed to making sound science the keystone for EPA work. The Agency does not in any way condone managerial conduct which is inconsistent with this principle. The importance of sound science to the accomplishment of our mission cannot be compromised.

I have considered your grievance and find that it is not grievable (sic). It does not raise a matter that is appropriately addressed under the provisions of the negotiated grievance procedure.

The Principles of Scientific Integrity does not constitute an enforceable contract, law, rule or regulation. Rather, it is a set of principles to guide the ethical practice of science in the Agency. The grievance fails to otherwise cite a breach of the collective bargaining agreement (CBA) or a violation, misinterpretation, or misapplication of any law, rule or regulation affecting the conditions of employment. Such a claimed breach is required under Article VII, Grievance Procedure, contained in the NFFE/NTEU 2080 (sic) collective bargaining agreement with the Agency.

Moreover, the subject of the grievance has been determined to be outside the parameters of the negotiated grievance procedure. A grievance submitted by NTEU, "Complaint Re: Principles of Scientific Integrity," dated August 6 (sic), 2000 went through three steps of the grievance procedure, including a Step 3 Panel comprised of three Deputy Assistant Administrators. The August 6(sic) 2000 grievance was denied because the Union failed to (1) provide a clear statement of the basis for the grievance, including reference to statutes, rules, regulations or collective bargaining agreement provisions alleged to have been violated; and (2) failed to provide any link to a specified condition of employment that would be an appropriate subject of a grievance. The grievance decision found that The Principles of Scientific Integrity was not intended to, and does not give rise to, enforcement through the negotiated grievance procedure.

Even assuming for argument's sake that the matter raised was grievable, it is further noted that the grievance does not raise sufficient information from which management could investigate whether the commitment to sound science has been compromised or whether the allegation contained in your grievance is supported by the facts.

The remedies that you seek are likewise not supported by the grievance or any information presented. The proffered statement accompanying a re-issuance of the Principles of Scientific Integrity presumes managerial misconduct that has not been established. Further, it is my understanding that any Agency-wide plan of action for implementing the Principles would involve employees represented by many other bargaining units and your suggested role for NTEU Chapter 280 would likely infringe on the rights of other Agency labor organizations.

For the reasons above, the grievance is denied.

Nevertheless, because the Principles of Scientific integrity encompass important ethical issues regarding the conduct of Agency business, I will be coordinating this matter with the Deputy Administrator and reissuing them as part of a series of communications I intend to issue reminding Agency employees of our commitment to an effective and efficient government which treats employees with dignity and respect. As always, I am also willing to meet with you to discuss this matter consistent with the decision reached in this grievance.