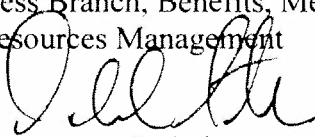




**U.S. Customs and
Border Protection**

MAR 11 2013

TO: Suzanne T. Ashford
Chief, Medical Fitness Branch, Benefits, Medical, and Worklife Division
Office of Human Resources Management

FROM: Donald R. Stakes 
Director, Labor-Management Relations
Office of Human Resources Management

SUBJECT: Agency Head Review
Memorandum of Understanding – New Medical Standards for GS-401 Position

The attached Memorandum of Understanding (MOU) signed March 4, 2013 memorializes an agreement between U.S. Customs and Border Protection (CBP) and the National Treasury Employees Union (NTEU) concerning the implementation of new medical standards for the Agriculture Specialist Position, GS-401. The negotiated terms have been reviewed in accordance with 5 U.S.C. §7114(c) and under Department of Homeland Security, Customs and Border Protection Delegation Order 10-001 dated February 23, 2010.

The MOU does not violate existing law, rule or regulation, and is hereby approved. This approval does not constitute a waiver of, or exception to, any existing law, rule, regulation, or policy.

If you have any questions or need additional assistance, you may contact Adam Mervis by telephone at (202) 863-6149, or by electronic mail at Adam.Mervis@dhs.gov.

CC: Luke Chesek, Assistant Counsel for Negotiations, NTEU
Deborah Eres, Deputy Director, Labor-Employee Relations Field Services
Jon Batt, Director, Field Programs, Office of Field Operations

Attachment

Memorandum of Understanding (MOU)
Between
National Treasury Employees Union (NTEU)
And
United States Customs and Border Protection (CBP)

I. Background:

On September 28, 2012, CBP briefed NTEU on its plan to implement new medical standards for the Agriculture Specialist position, GS-401. The standards are directly related to the actual duties and responsibilities required of the GS-401, Agriculture Specialist position. The standards represent the minimum level of health and physical abilities an individual must possess to ensure safe and efficient job performance. As such, the medical standards will not be applied to current Agriculture Specialists with regard to performance unless there is a fitness-for-duty concern as it relates to the individual's ability to perform the duties of the position safely and efficiently.

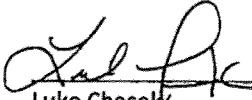
As explained in the briefing on September 28, 2012, the medical standards and physical requirements are job-related and will be applied in accordance with Title 5, Chapter 339 – Medical Qualification Determinations. All applicants tentatively selected for the position will be required to undergo a medical/physical examination provided by CBP to determine if they meet the medical qualification requirements.

Employees currently working as GS-401 Agriculture Specialists who have been effectively performing the job duties will not be subject to a medical exam upon implementation of the medical standards. However, CBP management may require an employee in the Agriculture Specialist position to undergo a fitness for duty medical evaluation paid for by CBP if there is a performance or conduct issue which may have a direct effect on the individual's ability to perform the duties of the position safely and efficiently. The medical standards will also apply to any current bargaining unit employee undergoing a return to work evaluation.

II. Terms or Provisions of Agreement:

NTEU and CBP (collectively referred to as "the parties") hereby agree to this MOU covering the implementation of new medical standards for Agriculture Specialists. The parties incorporate the above understanding and also agree as follows:

1. The medical standards will not be the basis for disciplinary action.
2. This agreement may be reopened by either party in accordance with the Parties' Collective Bargaining Agreement.
3. This agreement will become effective upon the completion of Agency Head Review or the passage of 30 days from the signing of this MOU, whichever comes first.



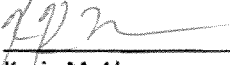
Luke Cheseck 2/7/2013
Date

NTEU, Assistant Counsel for Negotiations



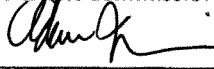
Suzanne Ashford 02/13/2013
Date

Chief, Medical Fitness Branch, BMW, CBP



Kevin McAleenan 03/04/13
Date

Assistant Commissioner, OFO, CBP



Adam Mervis 3/11/13
Date

Labor Relations, CBP