

Memorandum of Agreement  
Between  
AFGE 2923 and NIEHS  
Tobacco-Free Campus – RTP, NC

In conjunction with the Memorandum dated June 23, 2011 from Howard Koh, ASH, DHHS with subject: "Policy Issuance: Prohibition of Tobacco Use in HHS-Occupied Facilities," the Parties hereby agree to the following.

Preamble

The Parties recognize the importance of the NIH mission related to scientific research and application of that knowledge to extend healthy life while reducing the burdens of illness and disability. A significant amount of research has been conducted on the health effects of smoking. The research has clearly identified that tobacco use remains the leading preventable cause of death in this country and second hand smoke is a known cancer causing agent. The NIH has a special responsibility to set an example for other organizations and the communities served. Consequently, the Agency strongly encourages employees to lead a healthy lifestyle including when they are at work. In concert with that lifestyle the Agency agrees to continue, and establish as appropriate, healthy programs and offer healthy choices to employees.

Section 1.

Research has shown that the implementation of a tobacco-free campus policy in an office workplace that already had a tobacco-free policy for indoor settings was associated with an increase in quit rates and a reduction in daily cigarette consumption among continuing smokers. One of the key reasons for having a tobacco-free campus is to improve the health of all staff and visitors while positioning the NIH as a model for other agencies and organizations that are planning similar programs and policies aimed at promoting healthy, tobacco-free behaviors. This policy is not solely designed to protect nonsmokers from secondhand smoke but rather is also intended to encourage employees to improve their health by quitting the use of tobacco products. While recognizing that a portion of the NIH/NIEHS workforce smokes as well as the importance of improving the health of all staff, the Parties strongly encourage employees to take full advantage of all free, available resources to quit. The tobacco-free initiative is not designed to penalize any segment of the NIH workforce.

A tobacco-free workplace protects the health of nonsmoking employees while providing an environment conducive to tobacco users who are working to either quit or cut back on their use of tobacco. A tobacco-free NIH is expected to have a substantially greater effect on tobacco consumption than current policies that permit smoking in designated areas. The benefits of the Tobacco-Free HHS are diverse and include:

- Increased productivity
- Decreased absenteeism
- Lower costs of medical expenditures associated with tobacco use
- Lower consumption rates among non-quitters
- Improved success in long-range tobacco cessation
- Increased cost savings for employers, including costs associated with the risk of fire, property damage, maintenance, and employee benefits (Worker's Compensation, Disability, Retirement, Injury and Insurance)

## Section 2.

The Agency encourages and supports all employees who wish assistance in eliminating their dependence on the use of tobacco products to enroll in authorized Smoking Cessation Programs (SCP). A SCP includes all tobacco products. Since January 1, 2011, the Office of Personnel Management has made tobacco cessation resources available to all Federal employees by requiring all Federal Employees Health Benefits (FEHB) plans to provide comprehensive, barrier free coverage including counseling and medication. These benefits are provided with no copayments or coinsurance and are not subject to deductibles, annual or life time dollars. For employees who choose not to or cannot obtain no-cost SCP services through their health benefits plan (e.g., FEHB) the Agency will provide SCP services at no cost to the employee. Employee participation in SCP services obtained through their health benefits plan will be considered as an authorized (i.e., approved) program by the Agency. To the maximum extent possible, Agency authorized or sponsored programs will be offered during employee's duty hours. The Agency shall pay the full cost of employee SCP participation sponsored by the Agency. Similarly, the Agency shall reimburse the employee up to \$200 for any prescription or over-the-counter SCP used in conjunction with an NIH sponsored or approved SCP.

Information about these programs will be publicized and communicated throughout the Agency community and will highlight up-to-date information and resources on tobacco cessation available at the NIH Tobacco-Free and NCI Smokefree.gov websites. Any Agency sponsored education on tobacco cessation programs will be accessible to employees or given so that interested employees may participate or attend.

## Section 3.

It is critical that a tobacco-free environment be implemented in a rehabilitative rather than punitive manner and therefore it is important to carry-out this policy in a non-disciplinary manner to the fullest extent practicable. The Parties recognize that quitting smoking is difficult. Research shows that most tobacco users have more success with one of the assisted quit methods mentioned on the NIH Tobacco Free and NCI Smokefree.gov websites.

#### Section 4.

Supervisors shall be responsible for ensuring that employees are aware of the tobacco-free policy and the entitlements, such as participating in the smoking cessation program. Employees who do not conform to this policy after the implementation period may be subject to disciplinary action. In view of the difficulties some employees may experience in quitting and that research shows that often more than one attempt to quit may be needed, that shall be considered as a mitigating factor.

The Parties stress preventive and non-disciplinary measures shall be considered first. These measures include but are not limited to broad communication of NIH Tobacco Free resources and this Agreement; providing full access to smoking cessation support groups (including online groups); cessation treatment services; including a statement in all vacancy announcements that tobacco use is not allowed on NIH facilities, vehicles, or motorized equipment; considering incentives for employees to help them quit; no smoking signs; supervisory communication to subordinates about smoking cessation; and providing adequate time for employees to avail themselves of cessation programs/products.

#### Section 5.

Effective one year from the date this MOA is signed, employees shall not be permitted to smoke or use tobacco on any NIEHS owned or leased property. During the one-year interim period, bargaining unit employees (BUE's) shall follow the following phase-in process:

- A. For the first six (6) months after both parties have signed this agreement the current NIEHS policy and past practice shall remain in effect.
- B. From months seven (7) through twelve (12) BUE's shall not be permitted to use any tobacco products in any NIEHS owned or leased facilities including government vehicles. In addition, they shall be confined to designated smoking areas that are 25 feet from any entrance/exit of any NIEHS owned or leased building.
- C. After twelve (12) months from the signing of this agreement no tobacco products will be permitted in or on any NIEHS owned or leased space including government vehicles and privately owned vehicles while on such space.

The Agency agrees to fully and broadly communicate this policy to all BUE's in a timely fashion. Ongoing communication and education efforts regarding this policy shall be conducted as appropriate.

#### Section 6.

The Agency agrees that this tobacco-free MOU is for BUEs only and that the overall Agency tobacco-free policy shall be applied fairly to all employees,

contractors, and others on the NIEHS campus/leased space and not infringe upon the rights of BUEs.

Section 7.

Employees who wish to stop smoking but have been unable to successfully complete a smoking cessation program, or who have quit smoking but are experiencing related difficulties, may seek additional assistance through the Employee Assistance Program or other counseling services. Employee participation in counseling or cessation programs related to smoking is strictly voluntary. Employees will not be disciplined with regard to their participation or non-participation in any SCP. The NIEHS SCP shall be conducted in a fair, impartial, and beneficial manner for employees. Whenever there is a limit on smoking cessation programs or offerings, BUEs shall be given priority consideration.

Section 8.

Supervisors are strongly encouraged to grant leave requests for employees who are participating in a SCP, which may include outside support organizations or groups, which may involve time away from work. This would allow employees that are having difficulties quitting take full advantage of Agency sponsored or authorized cessation programs.

For the Agency:

/s/ Noreen E. Gordon  
Labor and Employee Relations Specialist

21 July 2011

For the Union:

/s/ Bill Jirles  
President, AFGE Local 2923

7-21-11