

PART 3 ATTACHMENTS

<u>ATTACHMENT 3A1</u>	Practical Pointers to Process Promptly a ULP charge
<u>ATTACHMENT 3D1</u>	Sample Letter Requesting Official Time
<u>ATTACHMENT 3F1</u>	Affidavit Taken in Person
<u>ATTACHMENT 3G1</u>	Sample Cover Letter and Affidavit of Charging Party Taken Telephonically
<u>ATTACHMENT 3H1</u>	Sample Questionnaire: Information Case
<u>ATTACHMENT 3H2</u>	Sample Questionnaire: Information Case
<u>ATTACHMENT 3I1</u>	Subpoena Duces Tecum
<u>ATTACHMENT 3J1</u>	Sample Confirming Letter for Charging Party Witness
<u>ATTACHMENT 3J2</u>	Sample Confirming Letter for Charging Party Witness
<u>ATTACHMENT 3J3</u>	Sample Confirming Letter for Charged Party Witness
<u>ATTACHMENT 3J4</u>	Sample Confirming Letter for Non-party Witness
<u>ATTACHMENT 3M1</u>	Sample Letter to Charging Party – Warning of Dismissal for Lack of Cooperation in failing to provide clarification of charge
<u>ATTACHMENT 3M2</u>	Sample Letter to Charging Party – Warning of Dismissal for Lack of Cooperation during the Investigation
<u>ATTACHMENT 3M3</u>	Sample Letter RE: Dismissal for Charging Party’s Failure to Cooperate

ATTACHMENT 3A1

PRACTICAL POINTERS TO PROCESS PROMPTLY

A ULP CHARGE

—

OFFICE ORGANIZATION

&

CASE PROCESSING TIPS

GENERAL OFFICE ORGANIZATION TIPS

A. Organization of the day/week in Office

1. Keep a daily list--“To Do,” “To Call,” “To Write”
2. The first thing in the morning, read decisions for one hour or work on a thorny research issue or write a difficult dismissal letter.
3. Keep some kind of calendar on the desk or wall--it is good to be able to take it along in briefcase.
4. Keep a one page list of all current cases, date of filing and status.
5. Make use of sticky notes attached to files as reminder of status/next step in investigation.
6. Maintain current phone numbers and fax numbers of parties in a take-along phone book.
7. Make sure your voice mail message is current.

B. Computer and Word Processing Tools

1. Macros:
 - Legal analysis & case cites by issue
 - Affidavits
 - Other forms: fax sheets, service sheets, memo, MOAs
 - Address macros — use the last name for the command
 - Forms: letters, complaints, fax, affidavit, affidavit fax, withdraw form, file memo form, dismissals, etc.
2. Computer file/folder organization
3. E-mail to parties

4. Quick correct — great for such things as “FLRA”, “7116 (a) (1) (2)”, etc.
5. “Sidekick” entries (calendar) and file case cover entries:
 - “Events” section of the calendar — keep an entry for each case, with a short note of what you are waiting for or intend to do next. As the case progresses keep moving and changing the entry for each case. At the same time, on the cover of the actual file jot the Sidekick entry date so that you will be able to find it if a party surprises you and sends you what you want earlier than you have anticipated.
 - “To Do” section of the calendar — here you store cases that are on long-term hold (deferred for example), and completed cases that are in the hands of the Regional Director for decision (this list simply rolls over each day until you click it off).
 - Contacts — Keep a card for each contact. You can add the person’s phone number to the “title” of his/her card, which allows you to see the phone number on the index list of cards without having to open up the specific card.
6. Folders — See example that follows.
7. File names — Place all communications and documents for each case in an “investigation” folder (h:\agent name\investigations) using the case number followed by a description — when it comes time to write up a report all documents for the same case are together (See example below).

COMPUTER FOLDER/FILE ORGANIZATION

c:\My files

AFFIDAVIT

ABCD\

Davis.222

Toms.222

Squirt.222

POLICY

Advice\

Appeals\

OGC\

Admin\

DGA\

Hode.222
Jones.222
Tips.222

CAA\

Fore.222
Libra.222
Walls.222

Forms\

Opening.page
Lined.page
Closing.page

Union\

Brown.222
Jones.222
Smith.222

Witnesss\

Brown.222
Jones.222
Smith.222

VAMC\

Brown.222
Jones.222
Smith.222

MEMO

MOU\

Forms\

Confirming.ltr
FAX
Info.ltr
Inquiry.ltr
Itinerary
Memo.wd
Affidavit.ltr

Misc\

Service.reps

PROCESS

Dismiss\
FIR\
Forms\
Macros\
Organize\
Settle\
REPRESENTATION
ABCD\
CERTS\
Election\
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CASE PROCESSING TIPS

A. Contacts with the parties

1. To encourage parties to be cooperative and responsive, you need to build trust, confidence and respect. Remember--trust is built up over time, but it may be lost in an instant.
2. Assess both representatives' personalities and skills and adjust your communication methods accordingly. Learn the theories and facts before expressing any views about the case.
3. Call early from the date of assignment. After one week if there is no response/contact, then send a letter. From the beginning, if you suspect the party may not be fully cooperative and/or responsive, set specific reasonable response dates for documents or answers to questions and confirm these time deadlines in writing. Consider putting the case aside for a few weeks, but make sure that the parties are actually doing something for you during those early weeks. At least the next call is not the first, "cold" call and you have some idea as to what you are facing.
4. Explain the process and keep parties posted on the status of the investigation.
5. Explain what evidence is needed to support/refute an allegation based on the case law. When advising parties of an RD decision, refer back to this discussion in reviewing what evidence did or did not come to light in the investigation.
6. Use confirming letters early in the case to help confirm key facts.
7. Keep the parties posted on the potential date for investigation or contact.
8. Use fax and e-mail. Encourage the parties to use e-mail because it allows you to put the evidence and positions into your computer investigation files.
9. Follow through on what you tell the parties you are going to do (call them or send them something).
10. Return phone calls. Check for messages when you are out of the office and try to return the calls. As stated above, make sure that your voice-mail message is current at all times.
11. If you do not know, or are unsure of an answer to a question, do not hesitate to tell the party that you have to check out the answer before you respond.
12. Do not require the parties to provide information that you do not know if you will need, i.e., do not waste their time.

13. Check with others in your office as to how they have dealt with the parties in the past.
14. Be as straightforward with the parties as you possibly can. The relationship you establish with the current case may affect how easily you will be able to deal with them on other future cases.

B. Organization at the on-site investigation

1. Set a schedule & clear official time for witnesses prior to arrival.
2. The investigation should be conducted in a private room with a phone--not the Union office or an office in or near the Personnel Office or Director's Office.
3. Union space is fine as long as it is reserved for the use of the investigation.
4. Keep a running list of documents and witnesses needed.
5. Make sure to have the phone number and schedule of the Union rep/Agency rep to contact if necessary.

C. How to conclude a case upon completion of investigation

1. Prepare a FIR ASAP after the investigation is finished (while it is still fresh in your mind). Schedule the time for the necessary research and write-up.
2. Consider whether Agenda is necessary.
3. After RD makes decision, get the decision to the parties, by phone, fax, etc.
4. Schedule a time to do the final actions-dismissals, complaints.

ATTACHMENT 3D1

SAMPLE LETTER REQUESTING OFFICIAL TIME

(Date)

Charged Party Rep.
(Name and Address)

Re: Case Name and Case Number

Dear Mr./Ms. (Name):

When we talked last week, I told you I would be coming to your facility on _____ to investigate this ULP charge. Under section 7131(c) of the Federal Service Labor-Management Relations Statute, please contact the supervisors and make sure that these employees are released on official time for an interview at the following times:

(Name)	8:00 A.M.
(Name)	10:00 A.M.
(Name)	12:00 P.M.

Also, since the Union does not have an office, please let me know if you have a private space where I can conduct the interviews. Each interview will last for approximately two hours, and I will contact you if I need to interview any additional witness(es). After you've talked to the supervisors, please call or e-mail me to confirm that the employees will be released.

Thank you for your cooperation.

Sincerely,

Field Agent

ATTACHMENT 3F1

AFFIDAVIT TAKEN IN PERSON

UNITED STATES OF AMERICA

BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY

() REGION

AFFIDAVIT

State of _____

Case Name _____

Case Number _____

I, (name), make the following voluntary statement in cooperation with an official investigation being conducted pursuant to the Federal Service Labor-Management Relations Statute. I have been assured by an Agent of the Federal Labor Relations Authority that this statement will be considered confidential by the United States Government and will not be disclosed as long as the case remains open, unless I testify at a formal hearing and it then becomes necessary to produce the statement at the hearing. Upon the closing of the case, the statement may be subject to disclosure in accordance with the Freedom of Information Act, as amended.

Home Address: _____

Home Telephone Number: _____

Work Telephone Number: _____

Work Position: _____

Work Location: _____

Years worked with Employer: _____

ATTACHMENT 3G1

SAMPLE COVER LETTER AND AFFIDAVIT OF CHARGING PARTY TAKEN TELEPHONICALLY

(Date)

(Name and Address)

Re: (Case Name and Number)

Dear Mr./Ms. (Name):

Enclosed is an affidavit that I have prepared based on our telephone conversation on (date) concerning the captioned case. Please review the affidavit and make any necessary **minor** corrections, changes or additions. Draw a line through words as needed or insert additional words as needed. Initial each change and initial in the space provided at the bottom of each page. Please call me if there is a **major** correction, change, or addition that you would like to make to the affidavit. As we agreed upon, please return the original signed affidavit by (). Should you fail to return the signed affidavit by the required date, the Regional Director may decide the case without your affidavit, or the case may be dismissed for lack of cooperation if no other evidence has been submitted.

Thank you very much for your cooperation in this matter.

Sincerely,

Field Agent

Enclosure

UNITED STATES OF AMERICA

BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY

() REGION

AFFIDAVIT

State of _____

Case Name _____

Case Number _____

I, (name), make the following voluntary statement in cooperation with an official investigation being conducted pursuant to the Federal Service Labor-Management Relations Statute. I have been assured by an Agent of the Federal Labor Relations Authority that this statement will be considered confidential by the United States Government and will not be disclosed as long as the case remains open, unless I testify at a formal hearing and it then becomes necessary to produce the statement at the hearing. Upon the closing of the case, the statement may be subject to disclosure in accordance with the Freedom of Information Act, as amended.

Home Address: _____

Home Telephone Number: _____

Work Telephone Number: _____

Work Position: _____

Work Location: _____

Years worked with Employer: _____

Union Position: _____

Page 1 of _____

Affiant's Initials _____

ATTACHMENT 3H1

SAMPLE COVER LETTER FOR QUESTIONNAIRE

(Date)

Charging Party Rep.
(Name and Address)

Re: Case Name and Case No.

Dear Mr./Ms. (Name):

I am sending you a questionnaire which you must complete as part of the investigation in the captioned unfair labor case. Please complete this questionnaire promptly so that I will be able to complete the investigation expeditiously.

We often ask Charging Parties to complete this questionnaire in light of many Authority decisions that have significantly impacted the manner in which unfair labor practice charges alleging a refusal to furnish information under section 7114(b)(4) of the Federal Service Labor-Management Relations Statute should be investigated and decided.

If the Regional Director determines that your charge lacks merit after applying the law to the facts of the case as described in your answers to the questions in the questionnaire, you will be given an opportunity to withdraw the charge and to resubmit the information request to the Agency. If you resubmit your request, make sure that you follow the guidelines set forth in the Authority's decisions. Enclosed is the Guidance Memorandum that the General Counsel has issued on Investigating, Deciding, and Resolving Information Disputes. This Memorandum discusses the Authority's decisions in this area and describes ways in which the parties can narrow and resolve their dispute in lieu of time-consuming and costly litigation. We also provide sample forms both for unions when submitting information requests and for agencies when responding to those requests.

Do the best that you can in answering the questions and signing the affirmation at the bottom of page three. Feel free to contact me at the telephone number below if you have any questions about the questionnaire or any other matter related to the investigation. In deciding the merits of the case, the Regional Director will rely upon your answers and any other documents that you present.

I ask that you submit the answers to this questionnaire by **(date)**. The failure to comply with this request would impact greatly the Region's effort to obtain the evidence necessary for the Regional Director to decide the case. Thus, should you fail to return the completed questionnaire by the required date, the

Regional Director may decide the case without your answers, or the case may be dismissed for lack of cooperation if no other evidence has been submitted.

Sincerely,

Field Agent
(telephone number)

Enclosures

ATTACHMENT 3H2

SAMPLE QUESTIONNAIRE: INFORMATION CASE

If your answer to any question does not fit in the space provided, you may attach additional sheets. Please indicate which sheet corresponds to which question.

Case Name and Number:

I, _____, in cooperation with an official investigation being conducted by the Federal Labor Relations Authority pursuant to the Federal Service Labor-Management Relations Statute, supply the following information voluntarily.

My full name is

My Union position/title is

My mailing address is

My phone number is (____)_____

1. On what date(s) did you make the information request?

2. What is the name of the requesting union?

3. If not you, what is the name, position, mailing address and phone number of the union representative who submitted the request?

4. What is the name, position, mailing address and phone number of the agency representative to whom the request was made?

- 5(a). How was the request made: _____ in writing; _____ orally; or _____ both in writing and orally?

- 5(b). If in writing, please attach a copy of the request.

5(c). If orally, either instead of a written request or in addition to a written request: state to whom you spoke; the date of the conversation(s); and, as closely as you can, exactly HOW YOU DESCRIBED the information what you were requesting.

6(a). Did you specifically request that the agency either include or delete personal identifiers (such as names, social security numbers or other matters identifying individual employees)? _____ Yes _____ No.

6(b). Was this done: ___ in writing; ___ orally; or ___ both in writing and orally?

7(a). Did you explain why the union needed the requested information:
___ in writing; ___ orally; or ___ both in writing and orally?

7(b). If in writing, please attach a copy of the request.

7(c). If orally, either instead of a written request or in addition to a written request: state to whom you spoke; the date of the conversation(s); and, as closely as you can, exactly WHAT YOU SAID to explain why the union needed the information you were requesting.

8(a). Do you know if the requested information is contained within a system of records under the Privacy Act? ___ Yes ___ No. If you do know, please identify that system of records.

Only answer the next two questions, 8(b) and 8(c), if your answer to number 8 is Yes.

8(b). If you know that the requested information is within a system of records under the Privacy Act, why doesn't the Privacy Act bar disclosure of the requested information, including any personal identifiers?

8(c). Did you state this to the agency representative? ___ Yes ___ No. If yes, describe as best you can exactly WHAT YOU SAID, to whom and when.

9(a). Did the agency respond to your request: ___ in writing; ___ orally; ___ both in writing and orally; or not at all?

9(b). If in writing, attach a copy of the written response.

9(c). If orally, either instead of a written response or in addition to a written request; state to whom you spoke; the date of the conversation(s); and, as closely as you can, exactly what the agency representative SAID TO YOU.

10(a). Does the Union still want copies of the information as requested? ___ Yes ___ No.

10(b). If yes, please explain how the Union intends to use the information?

11. Have the parties attempted to resolve this dispute themselves?

___ Yes ___ No. If yes, please describe as specifically as you can what efforts have been undertaken, by whom, when, and the results.

12. Discuss any other matters not listed above which relate to the union's information request and any agency response.

I have read the information above consisting of (number) pages, including any attachments, and affirm to the best of my knowledge and the belief that it is true.

ATTACHMENT 311

SUBPOENA DUCES TECUM

**UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF THE GENERAL COUNSEL**

TO: John Jackson
Labor Relations Specialist
Bureau of Water Treatment
Division of Water Resources
Department of the Interior
999 Pond Rd.
Denver, CO 80209

Request having been made by (Margo Thomas, Regional Director), whose address is (1391 Speer Blvd., Suite 300, Denver, CO 80204-3581) concerning disclosure of a document in

Case Name: Bureau of Water Treatment

Case No.: DE-CA-10-0700

YOU ARE HEREBY REQUIRED AND DIRECTED TO PRODUCE THE FOLLOWING DOCUMENT at the (Denver Regional Office, 124 Speer Blvd., Suite 100, Denver, CO 80204) by (5:00 p.m. on August 28, 1998). Any method of delivery of the document is permitted provided that the Regional Office receives the document by (5:00 p.m. on August 28, 1998):

(Overtime Rosters for the Blue Unit for the period beginning July 1, 1997 through June 30, 1998).



In testimony whereof, the seal of the FEDERAL LABOR RELATIONS AUTHORITY is affixed hereto and the undersigned has hereunto set his hand and authorized the issuance hereof.

(Signature)
General Counsel

NOTE:

5 C.F.R. § 2423.8(c)(4) provides a mechanism for enforcement of a subpoena should a person fail to comply with a subpoena.

ATTACHMENT 3J1

**SAMPLE CONFIRMING LETTER FOR CHARGING PARTY WITNESS
(§ 7118(a)(4) – UNTIMELY FILED CHARGE)**

(date)

Name of Witness
(Address)

Re: Case Name and Case Number

Dear Mr./Ms. (Name):

This letter confirms our conversation today about the allegations raised by the Union in this unfair labor practice charge. I called you specifically to ask you about management's decision to remove a phone from the machine shop area without first providing the Union with notice and an opportunity to bargain.

You told me that management implemented this change on (date - more than six months prior to the filing of the charge), and that you talked to a unit employee about it the day after management implemented the change.

If these facts are either incorrect or incomplete in any way, please call or e-mail me before (date). If I do not hear from you by that date, I will assume that the facts are correct. Also, this letter will be placed in my file, and is evidence that the Regional Director will consider in deciding this case.

I appreciate your cooperation in the investigation of this case.

Sincerely,

Field Agent

ATTACHMENT 3J2

SAMPLE CONFIRMING LETTER FOR CHARGING PARTY WITNESS

(date)

Name of Witness
(Address)

Re: Case Name and Case Number

Dear Mr./Ms. (Name):

This letter confirms our conversation today about this unfair labor practice charge. During our discussion, you told me that after I took your affidavit last week, the Agency notified you in writing that you would be suspended for 10 days, starting on (date). The notice is dated _____.

If these facts are either incorrect or incomplete in any way, please call or e-mail me before (date). If I do not hear from you by that date, I will assume that the facts are correct. Also, this letter will be placed in my file, and is evidence that the Regional Director will consider in deciding this case.

I appreciate your continued cooperation in the investigation of this case.

Sincerely,

Field Agent

ATTACHMENT 3J3

SAMPLE CONFIRMING LETTER FOR CHARGED PARTY WITNESS

(date)

Name of Witness
(Address)

Re: Case Name and Number

Dear Mr./Ms. (Name):

This letter confirms our telephone conversation today concerning the investigation of the unfair labor practice charge in the captioned case. Specifically, we discussed the Union's allegation that (name) was denied a Union representative at a meeting to discuss delinquent charges on her government credit card account.

As we discussed, the meeting at issue was held on (date) and was attended by (names). You stated to (name) that the purpose of the meeting was primarily to counsel (name) regarding a report of a delinquency in (her/his) Government American Express card account. You stated that you began the meeting by first asking (name) whether she had the card with her. She said that she did not and then left the room briefly to retrieve it. After (name) returned with the card and gave it to you, you wrote the card number down on a piece of paper.

When (name) returned she handed you the card and you then showed it to (name) who compared the account number with the number on the delinquency report. You recalled that (name) kept stating that she paid her bills, or words to that effect. You asked her about her use of the card and she responded that she did not remember for what purpose the card was used because it had been many months since she used the card. You then informed her of potential disciplinary action that could result if it were determined that the card was misused.

Finally, you stated that before you began to ask (name) questions that she requested representation. You stated that you denied the request because you did not believe the meeting to be investigation. Rather, you believed that it was a counseling session, and that under these circumstances (name) was not entitled to representation.

If any of the above-described facts are in error or are incomplete in any way, please contact me by telephone at (number) or in writing on or before (date). If the facts as described are accurate and complete, please sign in the space below in which you acknowledge that the facts as presented are accurate and complete. In addition, this letter will be submitted to the Regional Director as evidence that s/he will consider in deciding this case.

I appreciate your cooperation in the investigation of this case.

Sincerely,

Field Agent

I, _____, acknowledge that the facts contained in this letter are accurate and complete.

cc: Charged Party Rep.
(Name & Address)

ATTACHMENT 3J4

SAMPLE CONFIRMING LETTER FOR NON-PARTY WITNESS

(date)

Name of Witness
(Address)

Re: Case Name and Number

Dear Mr./Ms. (Name):

This letter confirms our telephone conversation today concerning the investigation of the unfair labor practice charge in the captioned case. You stated that you were not present during a conversation between (name) and (his/her) supervisor (name). During the morning of (date) you attended an off-site training program.

If the above fact is inaccurate or incomplete please contact me by telephone or in writing on or before (date). If I do not hear from you by that date, I will assume that the facts as described are correct. In addition, this letter will be submitted to the Regional Director as evidence that s/he will consider in deciding the case.

I appreciate your cooperation in the investigation of this case.

Sincerely,

Field Agent

ATTACHMENT 3M1

SAMPLE LETTER
RE: CHARGING PARTY FAILURE TO PROVIDE CLARIFICATION OF CHARGE
WARNING OF POSSIBLE DISMISSAL

(date)

Charging Party
(Name and Address)

Re: Case Name and Case Number
Request for Amended Charge

Dear Mr./Ms. (Name):

In preparing to investigate the captioned case which the Region docketed on (date), I have determined that it is necessary that the Charge be amended. I tried to contact you by telephone yesterday and today but I was unsuccessful.

The allegation and the theory of the violation are unclear as stated on the charge. The Region cannot begin to investigate the charge until you have filed an amended charge to clarify the allegation and theory of the violation. Once you have sufficiently clarified the allegations and theory of the violation in an amended charge, I will contact the parties to begin the investigation.

Please submit the amended charged which contains the clarification of the charge to the Regional Director at the above address by (date). Failure to submit the amended charge by (date) may result in dismissal of the charge for lack of cooperation. You are reminded to serve the Charged Party with the amended charge as required by section 2423.6(d) of the FLRA's regulations. If you have any questions concerning this matter, feel free to contact me at (telephone number).

Sincerely,

Field Agent

ATTACHMENT 3M2

SAMPLE LETTER

RE: CHARGING PARTY FAILURE TO COOPERATE DURING INVESTIGATION WARNING OF POSSIBLE DISMISSAL

SAMPLE LETTER

RE: CHARGING PARTY FAILURE TO COOPERATE DURING INVESTIGATION--WARNING OF POTENTIAL DISMISSAL

(date)

Charging Party
(Name and Address)

Re: Case Name and Case Number

Dear Mr./Ms. (Name):

This letter concerns the investigation of the captioned case which this office docketed on (date). The charge concerned an allegation that the Agency refused to provide the Charging Party with information under section 7114(b)(4) of the Federal Service Labor-Management Relations Statute and therefore violated section 7116(a)(1), (5), and (8) of the Statute.

On (date) I spoke with you by telephone about this case. During this conversation, you agreed to provide certain documentation in support of the charge. On (date), having not yet received the documentation, I telephoned you and left a voice mail message to that effect but you did not respond to my message. Again, two weeks later, on (date), I attempted on numerous occasions to leave messages but your voice-mail box was full. Today I left a voice mail message asking that you contact me as soon as possible regarding the investigation of this charge.

Our regulations state that “[a]ll persons are expected to cooperate fully with the Regional Director in the investigation of charges” which includes “[p]roducing “documentary evidence pertinent to the matters under investigation.” See 5 C.F.R. § 2423.8(b). In light of this requirement, I request that you either provide the documentation required by (date) or contact me by telephone before that date. In the event that the Union is no longer interested in pursuing this charge, please let me know so that I can arrange to have the Regional Director approve your request to withdraw the charge.

Should you fail to send me the required documentation or contact me on or before (date), I will recommend that the Regional Director dismiss the charge for failure to cooperate during the investigation.

Sincerely,

Field Agent

ATTACHMENT 3M3

SAMPLE LETTER

Re: Dismissal for Charging Party's Failure to Cooperate

(date)

Charging Party

(Name and Address)

Re: Case Name and Case Number

Dear Mr./Ms. (Name):

Although the Region has attempted to investigate your charge alleging violations under Section 7116(a)(1) of the Federal Service Labor-Management Relations Statute, we have been unable to do so because of your failure and refusal to cooperate in the investigation.¹ Accordingly, I have concluded that further proceedings are not warranted and I am dismissing your charge.

(insert appeal language here).

Sincerely,

XXXXXXXXXX

(Regional Director)

cc: Charged Party Rep.

¹ On (insert date) the Region sent you a letter warning that dismissal of the charge would occur should you continue to refuse to cooperate in the investigation. This letter detailed the instances in which the regional agent attempted to contact you to investigate the case.