

**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of Cara Zosh)
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Filing Date: January 6, 2026) Case No.: WBU-26-0002
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Issued: February 2, 2026

Decision and Order

Cara Zosh (Appellant), an employee of Triad National Security, LLC (Triad),¹ appealed the dismissal of a complaint that she filed against Triad under Part 708 of Title 10 of the Code of Federal Regulations (Part 708), the Department of Energy’s (DOE) Contractor Employee Protection Program. The Employee Concern Program (ECP) Manager for DOE’s Los Alamos Field Office (LAFO) dismissed Appellant’s complaint on December 16, 2025, for lack of jurisdiction pursuant to 10 C.F.R. § 708.18(c). On January 14, 2026, Triad submitted a response to the appeal in which it argued that Appellant’s appeal should be denied. For the reasons set forth herein, Appellant’s appeal is granted.

I. Background

A. The DOE Contractor Employee Protection Program

DOE’s Contractor Employee Protection Program was established to safeguard “public and employee health and safety; ensur[e] compliance with applicable laws, rules, and regulations; and prevent[] fraud, mismanagement, waste, and abuse” at DOE’s government-owned, contractor-operated facilities. Criteria and Procedures for DOE Contractor Employee Protection Program, 57 Fed. Reg. 7,533 (Mar. 3, 1992). Its primary purpose is to encourage contractor employees to disclose information which they believe exhibits unsafe, unlawful, fraudulent, or wasteful practices and to protect those “whistleblowers” from consequential reprisals by their employers. *Id.*

Part 708 prohibits DOE contractors from retaliating against an employee because that employee has engaged in protected activity, such as disclosing information that the employee reasonably believes reveals a substantial violation of a law, rule, or regulation, a substantial and specific danger to employees or to public health or safety, or fraud, gross mismanagement, gross waste of

¹ Triad manages Los Alamos National Laboratory on behalf of the Department of Energy’s (DOE) National Nuclear Security Administration (NNSA). *About Us*, TRIAD NAT’L SECURITY, LLC, <https://www.triadns.org/> (last visited Jan. 22, 2026).

funds, or abuse of authority. 10 C.F.R. § 708.5(a). Employees are also protected from retaliation for refusing to participate in an activity, policy, or practice if the employee believes that doing so would violate a Federal health or safety law or cause the employee to have a reasonable fear of serious injury to themselves or others, provided that the employee first asks the contractor to correct the violation or remove the danger. *Id.* §§ 708.5(c), 708.7(a). Available relief includes reinstatement, back pay, transfer preference, and such other relief as may be appropriate. *Id.* § 708.36.

A complainant who files a Part 708 complaint has the burden of establishing by a preponderance of the evidence that he or she engaged in protected activity, as described in 10 C.F.R. § 708.5, and that the complainant's protected activity was a contributing factor in one or more alleged acts of retaliation by the contractor against the complainant. *Id.* § 708.29. If the complainant meets that burden, the burden then shifts to the contractor to prove by clear and convincing evidence that it would have taken the same action without the complainant's protected activity. *Id.*

A contractor employee at a DOE field facility or site who alleges that he or she suffered retaliation for engaging in protected activity may file a Part 708 complaint with the Head of Field Element at the DOE field element with jurisdiction over the contract. *Id.* § 708.11(b). The Head of Field Element may dismiss a complaint for lack of jurisdiction or for other good cause. *Id.* § 708.18(a). Such a dismissal is appropriate if:

- (1) The complaint is untimely; or
- (2) The facts, as alleged in the complaint, do not present issues for which relief can be granted under [Part 708]; or
- (3) The complainant filed a complaint under State or other applicable law with respect to the same facts as alleged in a complaint under [Part 708]; or
- (4) The complaint is frivolous or without merit on its face; or
- (5) The issues presented in the complaint have been rendered moot by subsequent events or substantially resolved; or
- (6) The employer has made a formal offer to provide the remedy requested in the complaint or a remedy that DOE considers to be equivalent to what could be provided as a remedy under [Part 708].

Id. § 708.18(c).

A complainant may appeal dismissal of his or her Part 708 complaint by the Head of Field Element to the Director of the Office of Hearings and Appeals (OHA) "by the 10th day after receipt of the notice of dismissal . . ." *Id.* § 708.19(a).

B. The Complaint

On September 5, 2025, Appellant submitted a Part 708 complaint (Complaint) to the ECP Manager for DOE's LAFO. Complaint from Cara Zosh to LAFO (Sept. 5, 2025). On September 30, 2025, the Appellant submitted additional information regarding her Complaint. Email from Cara Zosh to LAFO (Sept. 30, 2025). In the Complaint, Appellant alleged that she made five protected disclosures² between November 2024 and August 2025. Complaint at 6. The Appellant alleged (1) on November 18, 2024, she submitted a staffing plan “documenting role misalignment and resource distortion”; (2) on November 20, 2024, she “[i]ssued [a] formal directive . . . addressing governance exclusion and role misalignment”; (3) on January 28 and 29, 2025, she “[e]scalated [a] subcontractor[’s] bypassing of reporting lines, budget misalignment, and governance sponsor void”; (4) on March 11, 2025, she “[e]scalated governance-linked deliverable oversight to Governance Board”; and (5) she “[o]bjected to authorship hijacking of the Master Resource Dictionary (MRD) Charter and identified the falsification of governance records.” *Id.* In a different document that the Appellant submitted, she alleged that she first disclosed her concerns about subcontractors in governance roles in February 2024, saying that these actions were “misalign[ed]” with DOE Order 413.3B and Federal Acquisition Regulation (FAR) 7.503(c). Complaint at 3. Appellant further alleged that Triad retaliated against her for these disclosures by (1) circulating “conflicting organizational charts” that “obscured the true chain of authority and created the appearance of legitimate governance roles where none existed”; (2) “depriv[ing] [her office] of staffing and resources” which “created a discriminatory contrast, and served as a retaliatory measure to erode [her] credibility”; (3) empowering subcontractors “to perform governance functions and circulate deliverables [she] authored”; and (4) “systematically” excluding her from “Governance Week sessions.” *Id.* at 4.

C. Dismissal

LAFO collected a response to the Complaint from Triad on October 20, 2025. Triad Response to the Complaint (Oct. 20, 2025).³ The Appellant was offered the opportunity to submit a reply to this response within ten calendar days of her receipt of the Response to the Complaint. Email from LAFO to Cara Zosh (Nov. 18, 2025). On December 4, 2025, the fifteenth day after the Appellant was sent Triad’s Response to the Complaint, she emailed LAFO and requested an extension to the following day. Email from Cara Zosh to LAFO (Dec. 4, 2025). LAFO informed the Appellant by email that it would accept a reply filed the next day. Email from LAFO to Cara Zosh (Dec. 4, 2025). On December 9, 2025, LAFO emailed the Appellant, telling her that because it had not received a reply, it had reviewed her Complaint and Triad’s response and made a decision, which

² The Appellant indicated to whom she made her alleged protected disclosures in her Complaint. Complaint at 6. These recipients included her supervisor, a subcontractor, and several parties whose role was unidentified. *Id.* Without making a finding on whether the Appellant made each of her alleged protected disclosures here to a proper party, we note that a protected disclosure can be made “to a DOE official, a member of Congress, any other government official who has responsibility for the oversight of the conduct of operations at a DOE site, the employer, or any higher tier contractor.” 10 C.F.R. § 708.5(a).

³ NNSA’s LAFO did not transmit Triad’s response to the Appellant until November 18, 2025, due to the lapse in NNSA appropriations that caused NNSA federal employees to be furloughed from October 20, 2025, to November 12, 2025.

would be sent to her by certified mail. Email from LAFO to Cara Zosh (Dec. 9, 2025). The ECP Manager subsequently issued a letter (Dismissal), dated December 16, 2025, dismissing the Complaint. Dismissal Letter from LAFO to Cara Zosh (Dec. 16, 2025). The Dismissal concluded that the Complaint did not show a “clear connection between [the Appellant’s] allegations and a substantial violation, a substantial and specific danger, or a defined form of misconduct” and it failed to “clearly identify an action taken by the contractor against [the Appellant], as an employee, with respect to employment . . . that would not have been taken but for [the Appellant’s] disclosure(s) of information.” *Id.* at 1–2; *see also* 10 C.F.R. § 708.18(c)(2) (providing for dismissal of a Part 708 complaint when “[t]he facts, as alleged in the complaint, do not present issues for which relief can be granted under this part”).

D. Appeal

On December 16, 2025, Appellant filed a submission with OHA which she subsequently confirmed was her appeal (Appeal).⁴ Email from Cara Zosh to OHA (Jan. 6, 2026). In the Appeal, Appellant argued that LAFO’s⁵ Dismissal was “procedurally erroneous and prejudicial.” Appeal from Cara Zosh to OHA at 2 (Dec. 16, 2025). More specifically, the Appellant raised in her Appeal that LAFO did not “issue [Triad] any deficiency notice” or direct Triad to “cure material omissions prior to transmittal” when, in her view, Triad “failed to address multiple matters raised in the [Complaint]” in its Response to the Complaint. *Id.* at 1.

The Appellant also asserted that she suffered prejudice because of the delay in receiving Triad’s Response to the Complaint. *Id.* LAFO had emailed the Appellant to inform her that Triad had responded to her Complaint on November 18, 2025. Email from LAFO to Cara Zosh (Nov. 18, 2025). The following afternoon, the Appellant emailed LAFO to inform it that Triad’s Response to the Complaint had not been attached to the email. Email from Cara Zosh to LAFO (Nov. 19, 2025). Less than five minutes after this email was sent, LAFO emailed the Appellant with a copy of the Response to the Complaint. Email from LAFO to Cara Zosh (Nov. 19, 2025). The Appellant argued in her Appeal that when LAFO failed to attach Triad’s Response to the Complaint to its initial email notifying her of that filing, it required “follow-up communication” from her and “compress[ed] the already abbreviated reply period.” Appeal at 1. The Appellant also argued that,

⁴ On December 16, 2025, the Appellant submitted an email entitled “Reply Submission - Agency Delay and Prejudicial Burden Shift (with EX-011B Attachments).” Email from Cara Zosh to OHA (Dec. 16, 2025). This email did not indicate that it was intended as an appeal of the Dismissal of the Appellant’s Complaint under Part 708. *Id.* On December 27, 2025, the Individual submitted an email entitled “Appeal under 10 C.F.R. § 708.19 - ECP Dismissal (SO: 53AC-2025-010064).” Email from Cara Zosh to OHA (Dec. 27, 2025). Because this second email did not indicate the “reasons the dismissal was erroneous” as required under 10 C.F.R. § 708.19(a), OHA asked the Appellant if she intended the email sent on December 16, 2025, to contain her reasons the Dismissal was erroneous and offered her the opportunity to amend her submission. Email from OHA to Cara Zosh (Jan. 6, 2026). The Appellant stated that she had intended the email sent on December 16, 2025 to contain her reasons the Dismissal was erroneous. Email from Cara Zosh to OHA (Jan. 6, 2026). As the statement of reasons for appeal was submitted the same day as the Dismissal, we consider the Appellant’s appeal to have been filed timely (i.e., “by the 10th day after receipt of the notice of dismissal,” as required by 10 C.F.R. § 708.19(a)).

⁵ In her Appeal, the Appellant repeatedly makes statements about actions that “OHA” took. Until the submission of the Appeal, OHA played no role in the processing of the Appellant’s Complaint. We take her references to OHA to be referring to the LAFO ECP, which processed and ultimately dismissed her Complaint.

by requiring her to request a copy of Triad’s Response to the Complaint, LAFO “shifted the burden of identifying, reconstructing, and attempting to cure [Triad’s] omissions” and that this alleged shift was prejudicial. *Id.*

Finally, Appellant argued that Triad interfered in her Complaint by requesting a meeting on December 12, 2025.⁶ *Id.* at 2. She alleged that Triad leadership failed to attend this meeting as scheduled and this “non-engagement compounded the prejudice created by agency delay, transmittal defects, and the absence of any directive requiring Respondent to cure material omissions.” *Id.*⁷

E. Response

On January 14, 2026, Triad submitted a response to the Appeal. Response Brief (Jan. 14, 2026) (Response). Therein, Triad argued that the Appeal should be dismissed because “it fails to fulfill the 10 CFR § 708.19(b) requirement to ‘state the reasons the dismissal was erroneous.’” *Id.* at 1. Triad further asserted that any new factual claims that the Appellant raised in her filings were not properly before OHA because 10 C.F.R. § 708.19(c) does not provide for consideration of new facts and allegations. *Id.*

F. Reply

On January 21, 2026, the Appellant submitted a reply to Triad’s Response. Reply Brief (Jan. 21, 2026) (Reply). The Reply argued that (1) the Appeal did not include new factual allegations; (2) that the Dismissal was erroneous because it relied on a Triad response that was not complete; and (3) that the Appeal states that the Dismissal was erroneous because of procedural error. *Id.* at 1–2.

II. Analysis

In deciding appeals of dismissals for lack of jurisdiction or other good cause, OHA “will review findings of fact for clear error and conclusions of law *de novo*.” 10 C.F.R. § 708.19(c). The Appeal does not identify any defects in the basis for LAFO’s dismissal of the Complaint under 10 C.F.R. § 708.18(c), instead arguing that the Dismissal should be reversed on procedural grounds.

The procedures for the processing of a complaint under Part 708 are set out in Subpart B of that regulation. Under these regulations, Head of Field Element is directed to provide a copy of any complaint filed with its office to the complainant’s employer by the fifteenth day after receipt of the complaint. 10 C.F.R. § 708.17(a). The employer then has fifteen days to respond to the complaint. *Id.* The Head of Field Element is then directed, on no specific timeline, to provide the complainant with a copy of the response and instruct them that they have ten days to submit “any

⁶ It is unclear from the Appellant’s Appeal when this meeting that Triad allegedly requested was supposed to occur.

⁷ In her Appeal, the Appellant made several assertions about additional alleged acts of retaliation by Triad. Appeal at 2. As she explained in her Reply that she did not intend to raise new factual allegations in her Appeal, we do not address them. *See infra* Section I.F. Additionally, the Appellant noted issues related to alleged “staffing depletion” on her team at Triad. Appeal at 1. The Appellant did not make any claims as to how those issues impacted her Appeal, and, as such, we do not consider them here.

additional comments regarding the complaint or the response.” *Id.* ECP then “may dismiss a complaint for lack of jurisdiction or for other good cause.” *Id.* § 708.18 (a). A decision to dismiss a complaint is “generally issued by the 20th day after the receipt of the employer’s response, but not before the complainant has submitted comments on the response or his time to do so has elapsed, whichever is soonest.” *Id.*

Here, LAFO provided Triad with an opportunity to respond to the Complaint, and Triad did so on October 20, 2025. Triad Response to the Complaint (Oct. 20, 2025). The Appellant was provided with the Response to the Complaint on November 18, 2025, shortly after NNSA was reopened following the lapse in government appropriations. Email from LAFO to Cara Zosh (Nov. 18, 2025). In this email, the Appellant was told that she had ten days to reply to the Response to the Complaint, per 10 C.F.R. § 708.17(a). The following day, the Appellant informed LAFO that the documents Triad had provided were not attached to the email. Email from Cara Zosh to LAFO (Nov. 19, 2025). That same day, LAFO provided her with the documents. Email from LAFO to Cara Zosh (Nov. 19, 2025). On December 4, 2025, the fifteenth day after she was sent the Response to the Complaint, The Appellant requested to submit her reply on December 5, 2025. Email from Cara Zosh to LAFO (December 4, 2025). LAFO agreed to accept a late-filed reply on December 5, 2025. Email from LAFO to Cara Zosh (Dec. 4, 2025). The Appellant did not submit a reply on December 5, 2025. On December 9, 2025, twenty days after LAFO provided the Appellant with Triad’s Response to the Complaint, LAFO sent Appellant an email telling her that it had moved ahead with its review of her Complaint as it had not received any reply from her about Triad’s Response to the Complaint. Email from LAFO to Cara Zosh (Dec. 9, 2025). Subsequently, LAFO sent the Appellant a letter via certified mail, informing her that it had determined, based on the information available to it, to dismiss the Complaint. Dismissal at 1.

The Appellant’s arguments that this process was deficient are unavailing. Firstly, the Appellant argued that LAFO erred because it did not direct Triad to correct what she characterized as “deficiencies” in its filing; *i.e.*, failing to respond to each allegation in the Complaint. This argument fails because Triad was under no obligation to respond to the Appellant’s Complaint. *See* 10 C.F.R. § 708.17(a) (“The employer has 15 days from receipt of the complaint to submit *any response it wishes to make* regarding the allegations in the complaint.”) (emphasis added). Because Triad was not obligated to respond to the Appellant’s allegations, it follows that LAFO had no obligation to direct Triad to make any additional response.

Next, the Appellant argued that LAFO’s failure to properly transmit Triad’s Response to Complaint in its first email message unfairly burdened her. This argument fails for several reasons. First, LAFO provided the Appellant with the relevant document within five minutes of being notified of its oversight, making any burden caused by the delay trivial. Next, any harm caused by this administrative issue was remedied by LAFO’s decision to allow the Appellant more than the regulatorily-required ten days to respond to Triad’s Response to the Complaint. I find that LAFO followed the proper procedures for processing a complaint filed under Part 708.

Finally, the Appellant’s arguments that Triad interfered with her ability to file a Reply to its Response to the Complaint are immaterial. Taking her allegations as true, Triad requested a meeting with her twelve days after the original deadline for her to file her Reply, seven days after the extension that LAFO granted her, and three days after LAFO informed the Appellant that it

had begun review of her Complaint. By the time Triad requested this meeting, the Appellant had already forfeited her right to reply by missing the prescribed deadlines. Therefore, we do not find that Triad's actions had any impact on the processing of the Individual's Complaint.

Although the Appellant has failed to identify any procedural error in LAFO's processing of her Complaint, we find that LAFO's letter informing the Appellant of the decision to dismiss her case was insufficient. Part 708 requires that a dismissal letter contain "specific reasons for the dismissal." 10 C.F.R. § 708.18(b). While the Dismissal stated generally that the Appellant's claims were not specific enough to present an issue for which relief could be granted under Part 708, it did not explain the specific deficiencies in the Appellant's Complaint. We grant the Appellant's appeal on this basis and remand to LAFO for further processing.

III. Conclusion

LAFO dismissed the Appellant's Complaint for lack of jurisdiction because it found the Appellant failed to allege facts that would establish that she engaged in protected activity and that her employer had taken retaliatory action with respect to her employment. In spite of the Appellant's arguments to the contrary, LAFO properly followed the procedures for processing a complaint as set out in Part 708. However, LAFO failed to provide the Appellant with sufficiently "specific reasons for the dismissal." Therefore, we remand this matter to LAFO for it to either provide the Appellant with specific reasons for the dismissal or else transmit the Complaint to OHA for further processing.

It is therefore ordered that:

- (1) The Appeal filed by Cara Zosh (Case No. WBU-26-0002) is hereby: GRANTED.
- (2) This matter is remanded to LAFO ECP for further processing consistent with this Decision.

Poli A. Marmolejos
Director
Office of Hearings and Appeals