



(January 19, 2016)

In order to further improve the lines of communication and to respond to the concerns between the National VA Council and you our members, I have established a National VA Council Briefing. This NVAC Briefing will bring you the latest news and developments within DVA and provide you with the current status of issues this Council is currently addressing. I believe that this NVAC Briefing will greatly enhance the way in which we communicate and the way in which we share new information, keeping you better informed.

Alma L. Lee
National VA Council, President

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**In This Briefing: FEDSMILL Articles**  
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SICK LEAVE ABUSE DURING THE PROBATIONARY PERIOD

What can an employee do who is fired for alleged sick leave abuse during her probationary period? One employee recently showed that she can get reinstated with full back pay, compensatory damages, and an order that the agency consider disciplining the manager who fired her. Here is a quick review of her alleged abusive sick leave usage and the arguments she used to win. [Continue reading →](#)

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FMLA QUIZ: WHO IS RIGHT AND WHO IS NOT?

Here are the facts of a 2015 MSPB decision in an adverse action suspension case. See if you remember the right answer. The employee left the office the morning of September 5 due to debilitating stomach cramps, making it to his car with the help of some of his colleagues and then driving far enough to get off post, where he parked until his

cramping subsided. He then drove the short distance remaining to his home, where he went straight into a dark room he uses when he has a strong migraine and collapsed. Two days later he notified his supervisor that he left the office unannounced due to an urgent health need on September 5 and requested intermittent FMLA leave on an emergency basis to cover the absence. He also asked that the absence be compensated via a request for advance credit hours. The supervisor refused to approve the request for advance credit hours and charged him with AWOL because he failed to request and receive leave approval before departing the office on September 5, as required by the agency's leave instruction. The two-day delay was unacceptable. The agency maintained that, because the appellant was able to drive himself home and to call his daughter, he was therefore able to give notice before he left the office that morning and, because he did not do so, he was AWOL. It then suspended him for 30 days. Do you believe the suspension should be upheld or overturned? [Continue reading →](#)

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THE DARK SIDE OF TELECOMMUTING

While negotiators on both sides of the bargaining table deserve credit for integrating telecommuting into the work place Inc. magazine just did a very good job of highlighting the negative impact of those were denied telecommuting. It is a topic we have never seen labor or management negotiators focus on in their contract and MOUs, but it seems like something we should be paying attention to. Check out, "[The Dark Side of Telecommuting To The Office.](#)"

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CONGRATS ON 2015 MEMBERSHIP GROWTH GOES TO...

*The International Federation of Professional and Technical Employees (**IFPTE**), the International Association of Firefighters (**IAFF**) and the National Labor Relations Board Union (**NLRBU**). We looked over the fiscal year 2015 LM reports filed so far by all national unions representing large numbers of federal employees to compare this year's membership count to last year's. These three showed that even when federal employment is dropping quickly a well-conceived membership plan will pay off. SF-1187 signing incentives of \$100.00 or more, cultural accountability for those local leaders who chronically fail to generate new members, computer-assisted demographical analyses of individual locals to identify how to energize support group-*

by-group, national strategic plans, etc. are all well-known ingredients. In fact, if a union does not have three out of the four and a good substitute for the missing one then it need look no further for the cause of its problems.

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UNIONS THROW OPEN THEIR BOOKS FOR PUBLIC REVIEW

Once a year unions post to the Internet details about how they spent members' money during their last fiscal year. Generally, these details are not even shared with the national executive board during the year and we know of no unions that go out of their way to mail their Board members copies before the reports are posted for the world to see. Some might consider that a lack of common courtesy while others will see it for an indication that the national officers do not hold Board members in high regard, e.g., the less they know the better. Board members often have to go find the information just like any other web surfer out there. So, as union reports for fiscal year 2015 are becoming available for scrutiny, we thought we would share with all interested readers what to look for when paging through these revelations. [Continue reading →](#)

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DEBT COLLECTION ACT REMEDIES & ATTORNEY FEES

*There have been a series of decisions recently highlighting those issues for which the Back Pay Act (BPA) remedies of interest and attorney fees do not apply. Few are any clearer than the Contract Board of Civilian Appeals (CBCA) decision ruling that BPA remedies are not available when a government agency reimburses an employee for a debt improperly collected under the Debt Collection Act (DCA). The employee in that case had been reimbursed by his agency for a debt it collected under procedurally incorrect rules. When he asked for interest on the reimbursement under the Back Pay Act, the CBCA traced the relationship between the DCA and BPA and concluded that the BPA does not apply when employees receive reimbursements on improperly collected debts to the agency. Consequently, none of the BPA remedies, such as interest or attorney fees, are available in those situations. (See **In the Matter of JEFFREY E. KOONTZ, Civilian Board of Contract Appeals, No. 3436-TRAV (July 23, 2013)**) [Continue reading →](#)*

