



Out of Many/One Union
AFGE NVAC/AFL-CIO

NATIONAL VETERANS AFFAIRS COUNCIL

American Federation of Government Employees, Affiliated with the AFL-CIO

NATIONAL GRIEVANCE

NG-3/23/17

Date: March 23, 2017

To: Kimberly McLeod
Acting Executive Director
Department of Veterans Affairs
Office of Labor-Management Relations
810 Vermont Avenue, NWp
Washington, DC 20420
kimberly.mcleod@va.gov
Sent via electronic mail only

From: Thomas Dargon, Jr., Staff Counsel, National Veterans Affairs Council (#53) (“NVAC”), American Federation of Government Employees, AFL-CIO (“AFGE”)

RE: National Grievance in the matter of the Department of Veterans Affairs for bypassing the Union and failing to notify the Union and follow contractual obligations regarding the development of national performance standards for several occupations within the Readjustment Counseling Service

STATEMENT OF CHARGES

Pursuant to the provisions of Article 45, Section 3 of the Master Agreement Between the Department of Veterans Affairs and the American Federation of Government Employees (2011) (“MCBA”), American Federation of Government Employees/National Veterans Affairs Council (“the Union”) is filing this National Grievance against you and all other associated officials and/or individuals acting as agents on behalf of the Agency for bypassing the Union and failing to notify the Union and follow contractual obligations regarding the development of national performance standards for several occupations within the Readjustment Counseling Service (“RCS”).

The VA, by and through its representatives and/or agents, initiated the development of revised national performance standards for the following RCS occupations: Counselor, Office Manager, Program Support Assistant, Vet Center Director, Mobile Vet Center Outreach Technician, and Veterans Outreach Program Specialist (collectively referred to as the “RCS Occupations”). The Agency failed to notify the national Union of its intention to revise the national performance standards for the RCS Occupations, failed to follow requirements in the 2011 Master Agreement concerning the development of national performance standards, and bypassed the Union by dealing directly with bargaining unit employees. To date, the VA has failed to remedy this violation, and as such, continues to violate the MCBA, VA policy, and federal law.

Specifically, the VA violated the Articles 2, 3, and 27 of the MCBA, 5 U.S.C. §7113 and §7116(a), and any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.



STATEMENT OF THE CASE

Background

On or about February 22, 2016, Leticia Dreilling, Acting Deputy District Director for the Readjustment Counseling Service in Veterans Health Administration of North Texas, emailed Michael King, President of AFGE Local 1633 in Houston, Texas, to notify him that the Agency was revising national performance standards for RCS Occupations and that these standards would be implemented nationwide on March 6, 2017.¹ Ms. Dreilling asked Mr. King to “review and [provide] feedback” on a series of proposed national performance standards for the RCS Occupations. The email notification to Mr. King indicated that the Agency was in “Final review of 2017 new Perf Standards for Vet Center staff.” On March 1, 2017, Elizabeth Srouhi, Team Leader for the Veterans Resource Center #711, emailed several bargaining unit employees and asked them to review proposed changes to national performance standards for RCS occupations. The national Union was not notified that the Agency intended to revise the national performance standards for RCS Occupations. The Agency did not provide draft standards and solicit feedback from the national Union.

Article 27, Section 5(I) of the MCBA requires that “[w]hen the Department mandates national performance standards, all bargaining obligations with the Union shall be met at the national level.” Here, the Agency failed to notify the Union of its decision to revise the national performance standards for RCS Occupations and failed to solicit feedback from the Union on the substance of each proposed standard. In failing to meet its bargaining obligation at the national level, the Agency has violated Article 27 of the MCBA.

Further, dealing directly with bargaining unit employees concerning any matter affecting the employee’s conditions of employment interfered with the Union’s rights under 5 U.S.C §7114(a)(1) to act as the exclusive employee representative. Dealing directly with bargaining unit employees in this regard amounts to an unlawful bypass of the Union, which constitutes an unfair labor practice under 5 U.S.C. §7116(a)(1) and (a)(5). To the extent that the Agency bypassed the Union, it has further violated 5 U.S.C. §7116(a)(1) and (a)(5).

Article 2 of the MCBA requires that the Agency comply with applicable federal statutes and regulations in the administration of matters covered by the MCBA. Therefore, in violating 5 U.S.C. §7113 and §7116, as set forth above, the Agency has failed to comply with Article 2 of the MCBA. Additionally, Article 3 encourages the parties to maintain a cooperative labor-management relationship that is based on mutual respect, open communication, consideration of each other’s views, and minimizing collective bargaining disputes. By failing to notify and properly engage the Union in revising national performance standards for RCS Occupations, the Agency has renounced its commitments under Article 3 of the MCBA and necessitated further collective bargaining disputes.

Violation

By failing to fulfill its obligations, the VA violated, and continues to violate, the following:

¹ A subsequent email from Ms. Dreilling stated that the implementation date was accelerated to March 1, 2017.

- Article 2 of the MCBA: requiring the Agency to comply with federal law and regulations;
- Article 3 of the MCBA: requiring the Agency to maintain an effective, cooperative labor-management relationship with the Union;
- Article 27 of the MCBA: requiring the Agency to satisfy bargaining obligations at the national level when mandating national performance standards;
- 5 U.S.C. 7116(a): requiring the Agency to consult in good faith with the Union and not to interfere with the Union's rights as the exclusive employee representative;
- Any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

Remedy Requested

The Union asks that, to remedy the above situation, the VA agree to the following:

- To return to the status quo ante until the Agency has properly notified NVAC and met the national bargaining obligation concerning revisions to national performance standards for RCS Occupations;
- To cease and desist the further development or implementation of the revised national performance standards for RCS Occupations;
- To fully comply with its contractual obligations under Articles 2, 3, and 27 of the MCBA and its statutory obligations under 5 U.S.C. §7116(a);
- To agree to any and all other remedies appropriate in this matter.

Time Frame and Contact

This is a National Grievance, and the time frame for resolution of this matter is not waived until the matter is resolved or settled. If you have any questions regarding this National Grievance, please contact the undersigned at AFGE Office of the General Counsel.



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