



**UNITED STATES OF AMERICA  
FEDERAL LABOR RELATIONS AUTHORITY  
CHARGE AGAINST AN AGENCY**

**FOR FLRA USE ONLY**

Case No.

Date Filed

**1. AGENCY AGAINST WHICH CHARGE IS BROUGHT**

a. Name of Charged Agency (include address, city, state, & ZIP)

Department of Veterans Affairs  
810 Vermont Ave. NW  
Washington, D.C. 20420

b. Agency Representative (include name, title, address)

Kimberly McLeod  
Acting Executive Director  
VA Office of Labor Management Relations  
810 Vermont Ave. NW  
Washington, D.C. 20420

tel. 202-461-7630 fax 202-461-4075

e-mail kimberly.mcleod@va.gov

**2. CHARGING PARTY**

a. Name of Charging Party (include address, city, state, & ZIP)

American Federation of Government Employees, AFL-CIO  
80 F St. NW  
Washington, D.C. 20001

b. Charging Party Representative (include name, title, address)

Michael Gillman  
Staff Counsel, National VA Council  
80 F St. NW  
Washington, D.C. 20001

tel. 202-639-6424 fax 202-379-2928

e-mail michael.gillman@afge.org

**3. BASIS OF THE CHARGE**

a. Set forth a clear and concise statement of the facts constituting the alleged unfair labor practice, including date and location of the particular acts.

The AFGE Veterans Benefits Administration Mid-Term Bargaining Team and the Department of Veterans Affairs, Veterans Benefits Administration engaged in bargaining over proposed changes in working conditions (performance standards for Veterans Service Representatives, among other changes) for bargaining unit employees represented by the Union. The Agency proposed the changes on January 9, 2017. The Union submitted timely demands to bargain on the proposed changes on January 20, 2017.

In January and February the parties exchanged proposals and engaged in negotiations over the telephone. According to the mutually agreed upon bargaining ground rules, face-to-face bargaining commences upon the failure of the parties to reach agreement by telephone. To that end, on February 27, 2017 the Union submitted its most-recent counter proposal and further proposed that the bargaining teams meet face-to-face at a mutually agreeable date so that bargaining could continue in accordance with the ground rules.

On March 1, 2017 the Agency responded by unilaterally implementing the new performance standards nationwide. To date the parties have not yet come to an agreement and bargaining has not and should not be concluded. The Union did not consent to post-implementation bargaining. The Agency's unilateral implementation prior to the completion of its bargaining obligations violates 5 U.S.C. 7116(a)(1) and (5).

As a remedy, the Union asks that the unilateral and premature implementation of the new performance standards be rolled back and that the Agency return to the status quo ante and any other relief deemed appropriate.

b. Which subsection(s) of 5 U.S.C. 7116(a) do you believe the Agency has violated? (1)  (2)  (3)  (4)  (5)  (6)  (7)  (8)

c. Have you or anyone else raised this matter in any other procedure? No  Yes  If yes, where?

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Grievance Procedure                         | <input type="checkbox"/> Federal Mediation and Conciliation Service | <input type="checkbox"/> Federal Service Impasses Panel |
| <input type="checkbox"/> Equal Employment Opportunity Commission     | <input type="checkbox"/> Merit Systems Protection Board             | <input type="checkbox"/> Office of Special Counsel      |
| <input type="checkbox"/> Other Administrative or Judicial Proceeding | <input type="checkbox"/> Negotiability Appeal to FLRA               | <input type="checkbox"/> Other _____                    |

**4. DECLARATION**

I DECLARE THAT I HAVE READ THIS CHARGE AND THAT THE STATEMENTS IN IT ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT MAKING WILLFULLY FALSE STATEMENTS CAN BE PUNISHED BY FINE AND IMPRISONMENT, 18 U.S.C. 1001.

THIS CHARGE WAS SERVED ON THE PERSON IDENTIFIED IN BOX 1b BY [check all appropriate boxes]

In Person  1st Class Mail  Fax  Commercial Delivery  Certified Mail  e-mail (see reverse)

Michael Gillman

March 6, 2017

Type or Print Your Name

Your Signature

Date

## INSTRUCTIONS FOR COMPLETING FORM 22:

### General

Use this form if you are charging that a federal agency committed an unfair labor practice under paragraph (a) of section 7116 of the Federal Service Labor-Management Relations Statute. File an original form with the appropriate Regional Director, Federal Labor Relations Authority. If you do not know that address, go to the FLRA's website at [www.flra.gov](http://www.flra.gov) or contact the Office of the General Counsel, Federal Labor Relations Authority, (202) 218-7910. If filing the charge by fax, you need only file a fax-transmitted copy of the charge (with required signature) with the Region. You assume responsibility for receipt of a charge. A charge is a self-contained document without a need to refer to supporting evidence and documents that are also submitted to the Regional Director along with the charge. If filing a charge by fax, do **not** submit supporting evidence and documents by fax. See 5 C.F.R. Part 2423 for an explanation of unfair labor practice proceedings and, in particular, §§ 2423.4 and 2423.6, which concern the contents, filing, and service of the charge and supporting evidence and documents.

### Instructions for filling out each numbered box

- #1a.** Give the full name of the agency, and component if applicable, you are charging and the mailing address, including the street number, city, state, zip code. If you are charging more than one agency or component with the same act, file a separate charge for each agency or component.
- #1b.** Give the full name, title, and other contact information for the agency's representative. Be as specific and as accurate as possible.
- #2a.** Give the full name of the union or individual filing the charge and the mailing address, including the street number, city, state, zip code. If the union is affiliated with a national organization, give both the national affiliation and local designation.
- #2b.** Give the full name, title, and other contact information for you or your representative. Providing all available contact information, especially e-mail addresses, will assist the investigation of your charge.
- #3a.** It is important that the basis for the charge be *brief* and *factual*, rather than opinion. Describe what happened that constitutes an unfair labor practice, who did it, where it occurred and when.
- Give dates and times of significant events as accurately as possible.
  - Give specific locations when important, e.g., "The meeting was held in the auditorium of Building 36."
  - Identify who was involved by title, e.g., "Chief Steward Pat Jones" or "Lou Smith, the File Room Supervisor."
  - Tell what happened, in chronological order.
- #3b.** Identify which one or more of the following subsections of 5 U.S.C. 7116(a) has or have allegedly been violated. Subsection (1) has already been selected for you because a violation of (2) through (8) is an automatic violation of (1). List all sections allegedly violated:
- 7116(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency-
- (1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;
  - (2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;
  - (3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;
  - (4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;
  - (5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;
  - (6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;
  - (7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or
  - (8) to otherwise fail or refuse to comply with any provision of this chapter.
- #3c.** If you or anyone else that you know of has raised this same matter in another forum, check the appropriate box or boxes.
- #4.** Type or print your name. Then sign and date the charge attesting to the truth of the charge and that you have served the charged party (individual named in box #1b). Check the box or boxes for all the methods by which you served the charge. You may serve the charge by e-mail only if the Charged Party has agreed to be served by e-mail.