



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-08/07/17

Date: August 7, 2017

To: Kimberly McLeod
Acting Executive Director, Labor-Management Relations
Department of Veterans Affairs
810 Vermont Ave., NW
Washington, D.C. 20420
Kimberly.mcleod@va.gov
Sent via electronic mail

From: Michael Gillman, Staff Counsel, National Veterans Affairs Council (#53) (NVAC),
American Federation of Government Employees, AFL-CIO (AFGE)

RE: National Grievance in the matter of Department of Veterans Affairs for its failure to bargain over changes in conditions of employment by unilaterally implementing a Zero Tolerance Approach for Controlled Substance Theft and Significant Loss/Diversio

STATEMENT OF CHARGE

Pursuant to the provisions of Article 43, Section 11 of the Master Agreement Between the Department of Veterans Affairs and the American Federation of Government Employees (2011) (“MCBA”), the 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 failure to bargain with the Union over changes in conditions of employment by unilaterally implementing a Zero Tolerance Approach for Controlled Substance Theft and Significant Loss/Diversio (the “Zero Tolerance policy”),

By implementing this policy prior to bargaining with the Union, the Agency violated Articles 2 and 47 of the MCBA and 5 U.S.C. §7116(a), and any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.



STATEMENT OF THE CASE

On June 12, 2017, the Agency, by and through the Acting Undersecretary for Health, Poonam Alaigh, announced via email sent directly to bargaining unit employees that the Agency would implement a Zero Tolerance Approach for Controlled Substance Theft and Significant Loss/Diversion. The Union, by letter dated the very next day June 13, 2017, demanded to bargain with the Agency over the proposed policy. In recognition of the Agency's statutory obligation to bargain with the Union over proposed changes prior to implementation, the demand to bargain also demanded that the Agency cease and desist any implementation of the proposed policy.

To date the Agency has not provided the Union with any information or data related to the proposed changes, has not provided the Union with a briefing on the proposed changes, and has not commenced bargaining with the Union over the changes.

Article 47 of the MCBA sets forth the contractual obligations of the parties for mid-term bargaining at the national level. Specifically, Section 1(C) permits the Union to "initiate mid-term bargaining at all levels on matters affecting the working conditions of bargaining unit employees." Section 2(B) requires the Agency to brief the Union within twenty (20) workdays after receiving the Union's demand to bargain. Further, 5 U.S.C. §7116(a) requires the Agency to "consult or negotiate in good faith with a labor organization." The Agency violated the Master Agreement and federal law by ignoring the Union's demand to bargain and unilaterally implementing the Zero Tolerance Policy.

Violation

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

- Article 47, Sections 1 and 2 of the MCBA: requiring the Agency to provide a briefing and otherwise participate in the negotiation process when the Union issues a bargaining demand;
- Article 2, Section 1 of the MCBA: requiring the Agency to comply with all applicable federal statutes;
- Section 7116(a)(5) of the Federal Service Labor-Management Relations Statute: requiring the Agency to negotiate in good faith; and
- 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 referenced violations, the Agency agree to the following:

- To cease and desist the implementation of the Zero Tolerance policy until such time as the Agency bargaining obligation has been met;
- To return to the *status quo ante* until the Agency has met its contractual and statutory obligations to the Union;
- To fully comply with its contractual and statutory obligations under Article 47 of the MCBA and 5 U.S.C. 7116(a)(5);
- To reinstate and make whole any employee adversely affected by the unilateral implementation of the Zero Tolerance policy; and
- To post, and distribute to affected employees via electronic mail, an appropriate notice signed by the appropriate Agency official acknowledging the failure to bargain and affirming its obligations under the Statute; and
- To agree to any and all other remedies appropriate in this matter.

Time Frame and Contact

This is a National Grievance. 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 (202) 639-6424.

Submitted by,



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cc: Alma L. Lee, President, AFGE/NVAC
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Ibidun Roberts, NVAC Supervisory Attorney, AFGE