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75/L2157/00359261

NATIONAL GRIEVANCE

NG-06/20/2016

**Date:** June 20, 2016

**To:** Kimberly Moseley  
Deputy Assistant Secretary for  
Labor-Management Relations  
Office of Labor-Management Relations  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420  
*Sent via electronic mail*

**From:** Shalonda Miller, Staff Counsel, National Veterans Affairs Council (#53) (NVAC),  
American Federation of Government Employees, AFL-CIO ("AFGE")

**Subject:** National Grievance in the matter of the Department of Veterans Affairs for 1) failing to provide notice and opportunity to bargain; 2) unilaterally implementing Medical Center Memorandums ("MCMs") concerning changes in working conditions at the Portland/Vancouver Division of the VA Portland Medical Center; and 3) failing to provide advance written notice to the President of the National VA Council, or her designee, of proposed changes in personnel policies, practices, or working conditions affecting the interests of two or more local unions.

STATEMENT OF CHARGES

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), American Federation of Government Employees/National Veterans Affairs Council (the "Union") is filing this National Grievance against you and all other associated Department of Veterans Affairs ("Agency") officials and/or individuals acting as agents on behalf of the Agency, for violations as it relates to: 1) the failure to provide notice and opportunity to bargain; 2) the unilateral implementation of MCMs concerning changes in working conditions at the Portland/Vancouver Division of the VA Portland Medical Center; and 3) the failure to provide

advance written notice to the President of the National VA Council, or her designee, of proposed changes in personnel policies, practices, or working conditions affecting the interests of two or more local unions.

Specifically, beginning on or about December 28, 2015, and continuing to date, the Agency, by and through its representatives and/or agents:

- 1) Unilaterally modified the following MCMs<sup>1</sup> without notice and opportunity to bargain:
  - a. MCM 00-17 Disclosure of Adverse Events (modified December 28, 2015)
  - b. MCM 00-14 Prevention Management and Reporting of Disruptive Patient Behavior (modified December 28, 2015)
  - c. MCM 05-03 Absence and Leave (modified January 27, 2016)
  - d. MCM 05-35 Compressed Work Schedule (modified January 27, 2016)
  - e. MCM 05-06 Evaluating Performance of Title 38 Employees (modified June 6, 2016)
- 2) Unilaterally implemented changes to the above MCMs which constituted changes in working conditions which have the potential to adversely impact bargaining unit employees in Local 2157 (Portland) and 2583 (Vancouver).
- 3) Failed to provide the President of the National VA Council, or her designee, advance written notice of proposed changes in personnel policies, practices and working conditions affecting the interests of two or more local unions.

In doing so, the Agency has violated the following provisions of the MCBA:

- 1) Article 2
- 2) Article 47, Section 4B
- 3) Article 49, Sections 2, 3 and 4
- 4) Any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

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<sup>1</sup> The Union reserves the right to supplement the list of modified MCMs until such time that this National Grievance is resolved or settled.

## STATEMENT OF THE CASE

### **I. Background**

On or about December 28, 2015, and continuing to date, the Agency began transmitting updated Medical Center Memorandums (“MCMs”) via its SharePoint intranet website. These MCMs concern changes to conditions of employment of bargaining unit employees, and thus require advance written notice to the Union in accordance with Article 45, Section 4 of the MCBA. At this time, the Union is aware of the following Locals affected by the Agency’s violation of the MCBA: Local 2157 (Portland, OR) and Local 2583 (Vancouver, WA). Since December 2015, both Local Presidents have been in active discussions with management officials who had indicated a willingness to provide advance notice of the changes set forth in the MCMs; yet they continuously fail to do so. Moreover, the Agency failed to provide notice to the President of the National VA Council, or her designee, prior to changing personnel policies, practices, or conditions of employment which affect the interests of two of more local unions.

### **II. Violation**

The Agency has violated the following provisions of the MCBA:

Article 2, which requires the Agency to comply with federal statutes;

Article 47, Section 4B, which requires the Agency to notify the local union of proposed changes to personnel policies, practices or working conditions. And further requires notification to the National VA Council President, or her designee, where proposed changes to personnel policies, practices or working conditions affect the interests of two or more locals;

Article 49, Sections 2, 3 and 4, which requires the Agency to partner with the Union in all matters relating to personnel policies, practices and other conditions of employment and requires the Agency to provide reasonable advance written notice to Union officials prior to changing conditions of employment of bargaining unit employees.

### **III. Remedy Requested**

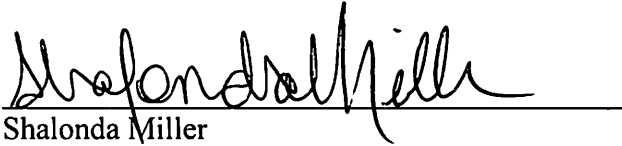
The Union asks that, to remedy the above situation, the Agency agrees to the following:

- 1) To return to the *status quo ante* or any other remedy the arbitrator feels is appropriate until the Agency’s bargaining obligations are met;
- 2) To cease and desist any changes in conditions of employment which resulted from the unilateral implementation of MCMs;
- 3) To provide advance written notice to the President of the National VA Council, or her designee, prior to changing personnel policies, practices, or conditions of employment which affect the interests of two of more local unions.

To agree to any and all other remedies appropriate in this manner.

#### **IV. 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 feel free to contact me at (202) 639-6424.



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Mary-Jean Burke, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC  
Cathie McQuiston, Deputy General Counsel, AFGE/NVAC