



NATIONAL VETERANS AFFAIRS COUNCIL

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

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

7S/00392220

NATIONAL GRIEVANCE NG-1/22/20

Date: January 22, 2020

To: Tracy Schulberg
Executive Director
Office of Labor-Management Relations
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420
tracy.schulberg@va.gov
Sent via electronic mail only

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

RE: **National Grievance against the Department of Veterans Affairs for its unilateral implementation of mandatory VATAS training regarding the tracking of official time**

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 officials and/or individuals acting as agents on behalf of the Department of Veterans Affairs (the “Department”) for failing to bargain with the Union regarding a change to conditions of employment when it unilaterally implemented a mandatory training program for the tracking of official time in the VA Time and Attendance System (“VATAS”). To date, the Department has failed to remedy this violation, and as such, continues to violate the MCBA and federal law.

Specifically, the Department violated Articles 2, 3, 47, 49 and the Duration of Agreement clause of the MCBA, 5 U.S.C. §7116(a), and any and all other relevant articles, laws, regulations, and past practices not herein specified. The Union specifically reserves the right to supplement this grievance based upon the discovery of new evidence or information of which it is not presently aware, or otherwise, as necessary.



STATEMENT OF THE CASE

Background

On January 9, 2020, Tamika Hinton, Supervisory Labor Relations Specialist in VA Central Office, sent a notice to the Union that the Department proposes to implement a mid-term change of a new web-based training course for all bargaining unit employees, entitled, *Managing Official Time in VATAS*. The notice stated that the training is mandatory. On January 14th, the Union issued a demand to bargain and a *cease and desist* order until the parties' bargaining obligations were met. The Union further demanded that, because the matter is covered by the parties' Master Agreement, that bargaining of this subject be addressed during negotiations of the successor collective bargaining agreement, which is currently underway. However, the Department unilaterally implemented the change on January 17, 2020. After the unilateral implementation was brought to her attention, Ms. Hinton claimed that the "TMS Team pulled that particular assignment back." However, the confusion is manifest. All bargaining unit employees have been given a deadline by which the training is required to be completed, for a training that is no longer available, creating unnecessary concern for potential disciplinary action for failure to comply.

Notably, the Union filed a similar grievance in 2018 concerning the Department's proposal for the mandatory use of VATAS for union representatives. A duly-selected arbitrator agreed with the Union that the tracking of official time in VATAS was a matter appropriate for bargaining; that the matter was covered by the Master Agreement; and, that the Union had the right to demand that such a subject be addressed during negotiations of a successor agreement. That case is pending before the Federal Labor Relations Authority on Exceptions filed by the Department.

The new mandatory training course is similar, but is now applicable to all bargaining unit employees, not just union representatives. This constitutes a change in conditions of employment. Yet, the Department failed to provide the Union an opportunity to bargain prior to implementation. The matter remains covered by the Master Agreement.

Violations

By refusing to negotiate in good faith with the Union prior to implementing the new training requirement, and by instituting a program that contradicts an arbitrator's prior decision, the Department committed an unfair labor practice under 5 U.S.C. §7116(a)(1) and (a)(5). Additionally, Article 2 of the MCBA requires that the Department comply with applicable federal statutes and regulations in the administration of matters covered by the MCBA. Therefore, in violating 5 U.S.C. §7116, as set forth above, the Department also failed to comply with Article 2. Further, 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 negotiate with the Union prior to implementing a mandatory training course, and with full knowledge of an arbitrator's decision over the same topic that required the Department to first meet its bargaining

obligations, the Department renounced its commitments under Article 3 of the MCBA and necessitated further collective bargaining disputes. Finally, the Department violated Articles 47, 49 and the Duration of Agreement clause of the MCBA, which set forth the parties' bargaining obligations at the national level.

Remedies Requested

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

- To cease and desist implementation of the VATAS training course;
- To return to the *status quo ante* until bargaining obligations are met;
- To fully comply with its contractual obligations under Articles 2, 3, 47, 49, and the Duration of Agreement clause of the MCBA and its statutory obligations under 5 U.S.C. §7116(a);
- To distribute an electronic notice posting to all bargaining unit employees concerning the Department's unilateral implementation of the VATAS training program in violation of the MCBA and federal law;
- To make-whole any bargaining unit employee adversely effected by the improper implementation of the VATAS training requirement; and,
- 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, please contact the undersigned at the AFGE Office of the General Counsel.



Shalonda Miller
Staff Counsel, National VA Council
Office of the General Counsel
AFGE, AFL-CIO
80 F Street, NW
Washington, DC 20001
Tel: 202-639-6424
Fax: 202-379-2928
shalonda.miller@afge.org

cc: Alma L. Lee, President, AFGE/NVAC
Mary-Jean Burke, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
Ibidun Roberts, Supervisory Attorney, AFGE/NVAC