



# NATIONAL VETERANS AFFAIRS COUNCIL

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

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

7S/00391840

## NATIONAL GRIEVANCE

NG-1/3/20

**Date:** January 3, 2020

**To:** Tracy Schulberg  
Executive Director  
Department of Veterans Affairs  
Office of Labor-Management Relations  
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 failing to notify and bargain with National Union officials when it unilaterally implemented OI&T mandatory overtime procedures.**

### 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”), the American Federation of Government Employees/National Veterans Affairs Council (“NVAC” or 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 “Agency”) for failing to provide the Union notice and an opportunity to bargain over changes in conditions of employment when it unilaterally implemented mandatory overtime for certain Office of Information & Technology (“OI&T”) bargaining unit employees. The Agency further violated the MCBA and federal law when it bypassed the Union by directly dealing with bargaining unit employees concerning their conditions of employment.

Specifically, the Agency violated Articles 2, 3 and 47 of the MCBA, 5 U.S.C. §§ 7114 and 7116(a), and any and all other relevant articles, laws, regulations, and past practices not herein specified.



## STATEMENT OF THE CASE

### Background

On December 5, 2019, Mark Gilliland, an Area Manager in the Nebraska Midwest District of OI&T, sent an email to representatives at AFGE Locals 2219, 2200, and 2601 requesting a meeting to discuss the implementation of “mandatory overtime and leave cancellation” for OI&T bargaining unit employees related to the Microsoft Windows 10 operating system update. Mr. Gilliland concluded his message by stating: “If we jump on this now, with your help, maybe we can come to an agreement and only need to implement mandatory OT week nights and weekends so I can avoid cancelling scheduled leave.” The Agency then implemented mandatory overtime procedures without further input from the Union.

Any proposed change in overtime policies and procedures must be provided at the appropriate level of union recognition. The MCBA specifically provides that proposed changes in policies, procedures or working conditions affecting the interests of bargaining unit employees at two or more locals be provided to the NVAC President, or her designee. MCBA, Article 47, Section 4. Accordingly, the Agency was required to notify and bargain with the Union’s national representatives. In providing notice of the proposed change to local Union officials only and implementing the change, the Agency failed to satisfy its bargaining obligations.

Further, a bypass of the Union occurs when an Agency undermines the exclusive representative by not communicating with the Union. 5 U.S.C. § 7114(a)(1). Here, Mr. Gilliland had previously been informed by the Nebraska local unions that matters relating to the implementation of mandatory overtime that would affect more than one local must be negotiated at the national level. Rather than meet those obligations, the Agency unilaterally implemented the mandatory overtime procedures. A bypass constitutes an unfair labor practice under the Federal Service Labor-Management Relations Statute.

### Violations

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

- 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 47 of the MCBA: requiring the Agency notify the National Union of proposed workplace changes affecting the interests of bargaining unit employees at two or more local unions;
- 5 U.S.C. § 7114: permitting a labor organization that has been accorded exclusive representation of a bargaining unit to act for and negotiate on behalf of all employees in the unit;
- 5 U.S.C. § 7116: requiring the Agency to consult and negotiate in good faith with the Union; and

- Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

### **Remedy Requested**

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

- To fully comply with its contractual obligations under Articles 2, 3 and 47 of the MCBA; and its statutory obligations under 5 U.S.C. §§ 7114 and 7116(a);
- To agree to meet all bargaining obligations at the appropriate level of recognition, and avoid bypassing the Union by communicating changes in working conditions directly with employees;
- To make whole any OI&T bargaining unit employee adversely affected by the Agency's failure to meet its bargaining obligations;
- To distribute an electronic notice posting to all OI&T bargaining unit employees providing that the Agency recognizes and intends to fulfill its obligations under the Federal Service Labor-Management Relations Statute; 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.

Submitted by,



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