



NATIONAL VETERANS AFFAIRS COUNCIL

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

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

7S/00384929

NATIONAL GRIEVANCE

NG-1/4/19

Date: January 4, 2019

To: Tracy Schulberg
Acting 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

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

RE: National Grievance in the matter of the Department of Veterans Affairs for violations regarding Article 7 – Quality Programs and related bypass of the Union.

STATEMENT OF THE 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”), 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 (“VA”) for violations regarding Article 7 – Quality Programs and the related bypass of the Union.

Specifically, the VA: 1) violated the provisions of Article 7 of the MCBA which provide for the creation of a joint National Quality Council (“NQC”) which develops, collaborates on, and approves quality improvement program initiatives; 2) bypassed the Union by directly dealing with bargaining unit employees (“BUE”) regarding the solicitation and implementation of quality improvement programs; and, 3) unilaterally implemented quality improvement programs without providing the Union reasonable advance notice of, the opportunity to be present at, and participate in discussions regarding such programs with bargaining unit employees.

By doing so, the VA has violated, and continues to violate, Articles 1, 2, 7, and 49 of the MBCA, 5 USC §§ 7114(a)(2)(A) and 7116(a), and any and all other relevant articles, laws, regulations, and past practices not herein specified.



STATEMENT OF THE CASE

Background

On a continuing and on-going basis, the VA violates Article 7 of the MCBA by failing to properly involve the Union in the development and implementation of quality improvement programs. Article 7 specifically provides that the Union and the VA (collectively, “the parties”) create a charter to enable the parties to collaborate over the creation of processes and programs which foster quality improvement throughout the VA. The Charter provides that the parties appoint an NQC whose members equally represent labor and management. Article 7 further provides:

Both parties agree that a successful quality program must empower all employees to fully participate in the development and implementation of Department programs and processes. The Department recognizes the Union as the exclusive bargaining unit representative in implementing, maintaining, and improving these quality programs. Participation of bargaining unit employees in the Department’s quality programs is a matter left to the discretion of the Union in its role on the facility Quality Council.

MCBA, Art. 7, Sec. 1B. In addition, the Charter provides:

- The NQC serves as the model for VA’s quality improvement effort;
- Quality councils at the facility level can approve projects unless the matter concerns cross-functional areas and is therefore appropriate for consideration at the national level;
- The NQC or other jointly appointed quality improvement teams will select quality improvement projects;
- Local quality improvement agreements that are in conflict with the Charter shall be superseded by the Charter; and
- VA management must ensure that the Union is notified before implementation of quality improvement initiatives.

MCBA, Art. 7, Sec. 3.

The VA’s Shark Tank competition is an example of the VA’s refusal to participate with the NQC. The Shark Tank competition solicits ideas from bargaining unit employees to improve medical center services with an opportunity to present their ideas to VA leadership in a manner similar to ABC network’s “Shark Tank” television program. The VA then evaluates the ideas of competition winners for potential implementation at medical centers nationwide. According to media coverage¹ of the VA, in 2018 eighty-five (85) “front line” employees presented their ideas to VA leadership during the Shark Tank campaign. The NQC was not involved.

¹ See <https://federalnewsnetwork.com/veterans-affairs/2018/09/how-the-vha-innovators-network-is-turning-changing-narrative-of-complacency/>.

Similarly, the VA has contracted with an organization called the Studer Group to conduct focus groups soliciting best practices from BUE. According to the Studer Group website,² “[it] works with healthcare organizations in the United States, Canada, Australia, and beyond, to help them achieve and sustain exceptional improvement in clinical outcomes and financial results.” The Union was made aware that the Studer Group was conducting focus groups with providers and front line staff to help identify best practices at the facility. The VA conducted these focus groups without the involvement of the NQC.

Violations

To date, the VA continues to unilaterally develop, solicit, and implement quality improvement programs without Union involvement, and thereby commits a continuing violation of its contractual and statutory obligations. Demonstratively, the parties will be meeting at an upcoming NQC meeting on January 28-29, 2019; yet the Union has yet to be notified regarding the Shark Tank competition or about the Studer Group.

In addition to violations of Article 7, the VA is also in violation of Articles 1, 2 and 49 of the MCBA which recognize the Union as the exclusive representative of BUE; requires the VA to comply with federal statutes and the Master Agreement; and requires a full partnership between the parties for purposes of reforming the VA;

The VA is also violating the Federal Service Labor-Management Relations Statute (the “Statute”). Specifically, by failing to bring quality improvement programs before the NQC, the VA has directly engaged with BUE without providing the Union reasonable advance notice of, the opportunity to be present at and participate in formal discussions with BUE concerning conditions of employment, as required by the Statute. Further, § 7114(a)(2)(A) of the Statute provides, in relevant part, that “the exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at any formal discussion between one or more representatives of the agency and one or more employees...or their representatives concerning any...personnel policy or practice or other general condition of employment.” Moreover, bypassing the Union and directly dealing with BUEs constitutes an unfair labor practice pursuant to § 7116(a)(1) of the Statute.

The VA has also violated 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 situation, the VA agree to the following:

- To cease and desist further implementation of quality improvement programs without Union, or more specifically, NQC involvement;
- To otherwise follow all of the provision of the NQC Charter;
- To properly notify the Union and provide an opportunity to be present at formal discussions with BUE regarding conditions of employment;

² See <https://www.studergroup.com/who-we-are/about-studer-group>.

- To agree to electronically distribute a notice posting to all BUE regarding its failure to comply with the Statute;
- To hereafter fully comply with its contractual obligations under the MCBA and all applicable federal laws, rules and regulations; 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. The undersigned representative is designated to represent the Union in all matters related to the subject of this National Grievance. If you have any questions regarding this National Grievance, please feel free to contact the undersigned by phone or electronic mail.

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