

AFGE



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7S/00363087

**NATIONAL GRIEVANCE**  
**NG-10/13/16**

**Date:** October 13, 2016

**To:** Kimberly McLeod  
Acting Executive Director, Labor-Management Relations  
Department of Veterans Affairs  
Office of Labor-Management Relations  
810 Vermont Avenue, NW  
Washington, DC 20420  
Kimberly.mcleod@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 violating the Master Agreement by continuing a moratorium on Time Off Awards without providing the Union notice and opportunity to bargain**

**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 ("Agency") for the following violations: 1) issuing a moratorium on Time Off Awards in violation of the MCBA; and 2) continuing the moratorium to date, without providing the Union proper notice and opportunity to bargain.

Specifically, on a continuing and on-going basis, the Agency, by and through its representatives and/or agents, violated the MCBA by upholding a moratorium issued by former Under Secretary for Benefits, Allison Hickey, prohibiting Regional Office management from granting Time Off Awards.



The Agency has failed to remedy this violation, and as such, continues to violate the following:

- Article 2, Section 2 of the MCBA
- Article 16, Sections 1 and 6 of the MCBA
- Article 49, Sections 2 and 4 of the MCBA
- and any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

## **STATEMENT OF THE CASE**

### **Background**

Beginning on or about August 26, 2016, and most recently on September 16, the Union was notified that the Agency has continued to enforce a moratorium put in place by former Under Secretary for Benefits, Allison Hickey, prohibiting Regional Office management from granting Time Off Awards to bargaining unit employees (“BUEs”). This moratorium was ostensibly issued in the wake of the Agency’s veteran wait times scandal. But, by unilaterally implementing the moratorium and refusing to meet its bargaining obligations, the Agency has violated several provisions of the MCBA.

First, Article 2 establishes that the MCBA shall govern over any conflicting Department policy or provision.

Next, Article 16 establishes certain incentive programs to recognize the contributions of BUEs in carrying out the Agency’s mission, specifically time off awards. It states, in pertinent part:

#### **Section 1 - Background and Purpose**

Recognition of employees through monetary and non-monetary awards reflects the parties’ efforts to promote continuous improvement in Department performance. The employee recognition program provides a positive indication of the parties’ commitment to providing quality public service. The employee recognition program, as described in this article, has the following characteristics:

- A. It is an incentive program; that is, employee recognition is based on achievement and improvement. Achievements are linked to the Department’s mission of providing high quality care and service to veterans and the public. The program is intended to motivate employees to strive for excellence. Strong emphasis is placed on recognition of efforts to improve service to veterans and the public.

- B. It recognizes the accomplishments of employees both as individuals and as members of groups or teams. Because of the interrelationship of work performed by employees, enhanced Department performance is sought through teamwork, not through competition among individuals. This program is based on the concept that individual employees who, through personal efforts and accomplishments support the goals of their teams, work units and, thus, deserve recognition. It is also based on the concept that groups or teams which improve Department performance deserve recognition. It recognizes that the Department, the Union, and employees have important roles in identifying and recognizing employees deserving of awards and praise. The intent of this program is to promote a positive work environment and to link awards to employee contributions that enhance Department performance.
- C. Further, it is the intent of this program to ensure that employees will be appropriately rewarded regardless of changes in the Department's organizational structure, work processes, or work initiatives.

**Section 6 - Time-Off Awards**

Time-off awards may be granted to an individual or group of employees for contributions that benefit the Department. These awards may be granted for contributions such as, but not limited to, the following:

- A. A significant contribution involving completion of a difficult project or assignment of importance to the mission of the Department;
- B. The completion of a specific assignment or project in advance of an established deadline and with favorable results;
- C. Displaying unusual initiative, innovation, or creativity in completing a project or improving the operation of a program or service;
- D. Displaying unusual courtesy or responsiveness to the public which clearly demonstrates performance beyond the call of duty and which produces positive results for the Department; and,
- E. Exemplary work by an employee as a canvasser for special campaigns or programs such as the Combined Federal Campaign, US Savings Bonds, or blood donor program. (An award for such an effort may not exceed one work day per activity.)

Finally, Article 49 establishes a full partnership between the parties for purposes of reforming the Agency; and further provides that prior to changing conditions of employment, the Agency shall brief the Union on its proposed changes and meet its bargaining obligations as required.

## **Violation**

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

- Article 2, Section 2: establishing that the MCBA shall govern over any conflicting Agency rule or regulation;
- Article 16, Sections 1 and 6 of the MCBA: establishing the Time Off Awards program and requiring that employees be appropriately awarded regardless of changes to Agency work initiatives;
- Article 49, Sections 2 and 4 of the MCBA: establishing a cooperative relationship between the Agency and the Union and requiring the Agency to provide the Union advance notice and opportunity to bargain over changes in conditions of employment; 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 situation, the Agency agree to the following:

- To cease and desist any moratorium on Time Off Awards;
- To fully comply with its contractual obligations under the MCBA; 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 regarding this National Grievance, please feel free to contact me at 202-639-6424.

Submitted by,

A handwritten signature in black ink, appearing to read "Shalonda Miller", written over a horizontal line.

Shalonda Miller  
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cc: Alma L. Lee, President, AFGE/NVAC  
Mary-Jean Burke, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC  
Cathie McQuiston, Deputy General Counsel, AFGE/NVAC