



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

NATIONAL VETERANS AFFAIRS COUNCIL

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

7S/388351

NATIONAL GRIEVANCE

NG-06/03/19

Date: June 3, 2019

To: Tracy Schulberg
Acting 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

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 statutory and contractual procedures concerning withholding dues.

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 (“NVAC” or “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 numerous violations of Article 45 of the MCBA, specifically with regard to the transferring and/or termination of dues allotments.

Specifically, on a continuing and ongoing basis, and most recently on May 20, 2019, the NVAC was notified that bargaining unit employees (BUEs) were not being reimbursed for dues improperly deducted from their pay upon submission of a properly executed SF-1188, “Cancellation of Payroll Deductions for Labor Organization Dues.” Similarly, NVAC has been notified by several local unions that as a result of the ongoing Agency violations of dues transfer procedures, BUEs who have transferred to AFGE locals at different facilities have had dues withheld from two locals. To date, the Agency has failed to remedy these violations, and as such, the Agency continues to violate the MCBA and federal law.



Specifically, the Agency is violating Articles 2, 3 and 45 of the MCBA, 5 U.S.C. §§ 7115(a) and 7116(a)(1); and any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

STATEMENT OF THE CASE

Background

5 U.S.C. § 7115(a) requires that “[i]f an agency [receives] from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee ...periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the agreement. Any such allotment shall be made at no cost to the exclusive representative or the employee.”

Here, the NVAC is the exclusive representative for a consolidated bargaining unit. While AFGE Locals may set their own dues amounts, an employee remains in the consolidated bargaining unit even if they transfer to another facility with a different AFGE Local. The parties addressed this basic premise and the requirements of the statute in the MCBA.

Specifically, Article 45, “Dues Withholding,” of the MCBA sets forth the negotiated procedures, as well as the relative responsibilities of labor and management, regarding dues withholding for bargaining unit employees. These procedures require the Agency to process dues allotments in a timely matter in amounts certified by the local union; withhold dues on a bi-weekly basis; and remit withholdings to the appropriate local union. In the case of a BUE who transfers between stations, the Agency is required to remit dues to a different AFGE local upon the transferred employee’s arrival at the new station; and notify the receiving local, in writing, of the addition of the transferred employee to that unit within two weeks of the employee’s entrance on duty.

Further, in 2017, the Union filed a national grievance because the Agency failed to follow the MCBA’s procedures on dues withholding when an employee transferred facilities. As a result, the parties settled the dispute. As one of the settlement terms, the Agency was required to develop and distribute procedural guidance specifically for internal transfers of dues between duty stations. In January 2018, the Agency’s Financial Services Center (“FSC”) developed the guidance (*see* “FSC alert,” attached as Exhibit “A”).

However, despite the statutory, contractual, and Agency procedures, the issues arising from the withholding of dues remain. For example:

- Local 2779 (Gainesville, Florida): a BUE submitted an SF-1188 to be removed from the Union in accordance with her anniversary date. Despite receiving and signing the form on the same day, the Agency failed to process the revocation form in a timely manner. As a result, the employee was overcharged dues for several months after her withdrawal from the Union.

- **Local 862 (Brooklyn, New York):** in August 2017 a BUE transferred to another station but remained in the bargaining unit. Upon her transfer, she was paying dues to both the former local and the receiving local. Rather than correct the double dues deductions, the Agency stopped the dues to the local where the employee is currently stationed but continues to deduct dues from Local 862. These deductions continue to date despite the Local's attempts to get them stopped.
- **Local 906 (Topeka, Kansas):** in February 2019, a BUE transferred to another station that did not have a union. The Agency failed to timely stop remitting dues to Local 906 despite numerous requests by the employee.
- **Local 1738 (Durham, North Carolina):** in October 2016, a BUE transferred to the Long Beach, California facility under a different AFGE Local. The Agency failed to process her transfer properly which resulted in the employee paying dues to Local 1738 for 53 pay periods. These errors have also prevented the employee from joining the AFGE local in Long Beach to date.
- **Local 3197 (Seattle, Washington):** In October 2018, a BUE transferred to the Tacoma facility. Despite the former local's attempts to get the local payroll office to stop the dues, each pay period the Agency continues to remit dues to Local 3197, resulting in double dues payments by the employee to date.

These failures are pervasive throughout VA-facilities nationwide; therefore, the Union specifically reserves the right to add affected locals to this grievance.

Violations

On a continuing and ongoing basis, the Agency has violated the law, Article 45 of the MCBA, and its own procedures regarding dues processing. It is the Union's contention that these tactics by the Agency are deliberate, in bad faith, and seek to prejudice employees against the Union. This blatant disregard for the wishes of bargaining unit employees further demonstrates the Agency attempts to interfere with and restrain employees in their rights guaranteed by 5 U.S.C. Chapter 71; which constitutes an unfair labor practice.

By failing to fulfill its obligations, the Agency has 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 labor and management to cooperate in an effort to minimize and eliminate collective bargaining disputes;
- **Article 45 of the MCBA:** requiring the Agency to withhold, process changes and process the revocation of dues in a timely manner at no cost to the Union;
- **5 U.S.C. § 7115(a):** requiring the Agency to make appropriate dues allotments upon written authorization by a bargaining unit employee, at no cost to the Union or employee;

- 5 U.S.C. § 7116(a)(1): prohibiting the Agency from interfering with, restraining, or coercing any employee in the exercise of their rights to be involved with the Union; and
- any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

Remedies Requested

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

- To precisely follow the procedures for dues withholding as prescribed by Article 45 of the MCBA, specifically with regard to employee transfers and the revocation of dues;
- To make whole any bargaining unit employee affected by the improper deductions withheld in violation of the statute, MCBA, or Agency policy;
- To make whole any Local that has lost dues due to the Agency's improper conduct;
- To fully comply with its contractual obligations under Articles 2 and 3 of the MCBA and its statutory obligations under 5 U.S.C. §§ 7115(a) and 7116(a);
- To distribute an electronic notice posting to all bargaining unit employees identifying the Agency's violations and reaffirming its obligations under the MCBA and federal law; and
- To agree to any and all other remedies appropriate in this matter.

Time Frame and Contact

This is a National Grievance. 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. The undersigned representative is designated to represent the Union in all matters related to the subject of this National Grievance.

Submitted by,



Shalonda Miller
Staff Counsel, National VA Council
American Federation of Government
Employees, 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**

EXHIBIT A



FINANCIAL SERVICES CENTER

Financial Payroll Services

PROCEDURAL GUIDANCE FOR PAYROLL



TRANSFER: INTERNAL VA EMPLOYEE UNION DEDUCTIONS

Procedural Guidance

Issue Date: 01/11/2018

- I. **Background/Purpose:** When an employee at a VA facility transfers to another VA facility, or transfers positions within a facility (i.e., from a union bargaining unit (BU) position to a non-union BU position), the records in HRSmart transfer with the employee, including entitlements from the former facility and/or former position that may no longer be applicable. **Local Payroll at the gaining facility must review the HRSmart record of every employee who transfers to (or within) their facility to ensure that the union dues entitlements and/or deductions are current and correct for new facility and/or position.**

- II. **Employees Affected:**
 - Any employee who transfers from one VA facility to another VA facility
 - Any employee who transfers to a different position within the same facility

- III. **Action Required:** All VA payroll offices at the gaining facility must adhere to the prescribed guidelines below. **No later than the first pay period following receipt of notification of an employee's transfer, local payroll will:**
 - A. **Verify Transfer Information:**
 - 1) Before the end of the pay period, obtain a list of all employee transfers to your station and employees who change positions within your facility by accessing HRSmart query "Z_VAHR_GAINS_LOSSES_ALL" (your local HR office should be able to assist if local payroll cannot access this report through query viewer).
 - 2) Check daily to see when the employee record has been updated in HRSmart and verify that the 5xx and/or 7xx Nature of Action (NOA) code reflects a PI Update Indicator of "Applied". Once HRSmart shows "Applied", verify the 5xx or 7xx NOA has updated appropriately in DCPS. If the status has not updated properly, contact your local HR office for assistance.
 - 3) Once the transfer record is updated in DCPS, determine if the employee is eligible to be in a BU – BU is listed on the Employment Data 2 tab of the Par Pages in HRSmart. *NOTE: This code is different than the Union Deduction Code used for local unions.*
 - If the employee has joined a union, you will see the 4-digit national BU code.
 - A BU code of "7777" means the employee is in an eligible BU position and is not represented.

TRANSFER: INTERNAL VA EMPLOYEE UNION DEDUCTIONS

Procedural Guidance

Issue Date: 01/11/2018

- A BU code of "8888" means the employee is in an ineligible BU position. See Section III.B.3 for additional detail. NOTE: If the employee transferred from a non-BU position to a non-BU position at your facility, no action is required.

B) Action for Union Deductions:

- 1) Review the information in HRSmart on the General Deductions page for union deductions.

Main Menu > Payroll for North America > Employee Pay Data USF > Deductions > Create General Deductions

- 2) If the employee belongs to a national union or association that does not have local chapters, i.e., Senior Executive's Association, then leave the record intact (do not make any change to the HRSmart record). Record this information on Attachment 1, "*Transfer: Internal VA Employee – Union Report*" (*Excel worksheet*), with an annotation of "no change" in the current station column.
- 3) If the employee has transferred from a BU position to a non-BU position and has an existing union deduction, notify the employee in writing, i.e., e-mail, to determine if they wish to continue (or discontinue) deductions to the union; take appropriate action based on the employee response. If the employee does not respond, then the union dues will continue until the employee submits a request in writing to stop the deduction. *Note: Union dues already processed for payment to the union will not be refunded through VA payroll; the employee will need to contact the union directly to request a refund.*
- 4) If the employee has an active deduction for a local union and the type of local union at the former station does not exist at the gaining station, then local payroll will:
 - a. Notify the employee in writing, i.e., e-mail, to determine if they wish to continue (or discontinue) deductions to the union at their former facility. If the employee does not respond, then the union dues will continue until the employee submits a request in writing to stop the deduction.
 - b. To discontinue the former BU code, add a new row in the Deduction Details section, then enter the end date for the former station's union code – end date will be the last day of the pay period in which the employee transferred to the gaining facility or non-BU position or the end of the pay period in which payroll was notified of the transfer. NOTE: End date cannot be retroactive.
 - c. If there is a local chapter of the same type of union, then create a new deduction for the local union by adding a new row in the General Deductions section and entering the local Deduction Code with an effective date of the pay period following notice of the transfer; effective date will be the first day of the pay period. NOTE: This is only done when the local union is the same type of union, i.e., AFGE local, NAGE local.

TRANSFER: INTERNAL VA EMPLOYEE UNION DEDUCTIONS

Procedural Guidance

Issue Date: 01/11/2018

EXAMPLE: Employee transferred from station 589 to station 103 effective 12/10/17 and was a member of the AFGE local chapter at station 589. Local payroll was notified of the employee's transfer on 12/14/17 and confirmed that the employee's HRSmart union record reflects the prior station 589 ("V6HA – AFGE Local 3399") which is specific to the local AFGE at station 589. Local payroll sent a notice via e-mail to the employee; the employee responded indicating they wanted to discontinue the deduction for the former station and switch to the union at their new station. Local payroll will discontinue the former station union code by adding a new row and entering an end date of 12/23/17. The following pay period, local payroll will create a new union deduction in HRSmart for the AFGE local at station 103 ("V01A – AFGE Local 1745") with the effective date starting the pay period following the cancellation of the previous union deduction – in this example, 12/24/17 would be the start date.

NOTE: The stop and start transactions must be submitted in separate pay periods. Local payroll must verify that each action update in DCPS correctly.

- 5) Record the end/start dates on Attachment 1, "*Transfer: Internal VA Employee – Union Report*" (*Excel worksheet*), annotating the former station and gaining station columns as appropriate.
- 6) By the second Friday of each pay period, local payroll will provide the local AFGE union a copy of Attachment 1, "*Transfer: Internal VA Employee – Union Report*" (*Excel worksheet*). Do NOT provide the union with any personally identifiable information (PII) information, i.e., social security number.
- 7) Additional notes for starting and stopping union deductions:
 - a. A SF1187 is provided by the local union when an employee initially joins. A SF1187 is not required when the employee transfers from a station with a similar local union deduction already in place.
 - b. A SF1188, "*Cancellation of Payroll Deductions for Labor Organization Dues*," is requested by the employee and signed by the local union to end union deduction (which should only be stopped in conjunction with the employee's union anniversary date). If an employee transfers from an eligible BU position to an ineligible BU position, i.e., supervisor, the written notification from the employee will take the place of the SF1188.

C) Union Codes and Rates Report

RSD¹ "E3" report titled "Union Codes and Rates" (User Name: "**MANUAL**"; Form: MSGU) includes all VA wide union data. This report reflects all union codes used within VA and is not specific to individual stations. The effective date of the code reflects a default date of 01/01/1980; however, the effective dates will update when changes are received and

¹ RSD stands for Rogers Software Development

TRANSFER: INTERNAL VA EMPLOYEE UNION DEDUCTIONS

Procedural Guidance

Issue Date: 01/11/2018

accepted by DFAS. If you are not able to access the report using RSD; the report can be accessed using the following Human Resources Information Systems (HRIS) weblink:
http://vaww.va.gov/HRIS/apps/hrissync/UNION_CODES_RATES.TXT

NOTE: The union distribution code was updated in HRSmart to reflect "000" instead of the station number. Centralization of the union codes will allow the losing and gaining station access to all union codes. The HRSmart drop down only displays the first 300 results, so the user will need to find the appropriate code in the Union Codes and Rates report.

VIII. Resource Section

- A. **HRSmart User Guide** (see Part 05 (V) for payroll specific information):
https://vaww.infoshare.va.gov/sites/OHRM/HR_LOB/hrsmart/SiteAssets/ReferenceToolkitPayroll.aspx
- B. **FSC Payroll Procedures:** <http://vaww.fscdirect.fsc.va.gov/payroll.asp>

IX. Questions

Inquiries regarding the contents of this alert should be sent to VAFSC Payroll Support Tier 1 by submitting a new case ticket through the customer service portal at <https://vaww.vafscvatascsp.fsc.va.gov/> under the New Case option select Payroll Support.

X. Attachments

Attachment 1: Transfer: Internal VA Employee – Union Report (*Excel worksheet*)