



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
NATIONAL VETERANS AFFAIRS COUNCIL #53
Affiliated with the AFL - CIO
Mid-Term Bargaining Committee

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April 12, 2019

Tracy Schulberg, Acting Executive Director
Office of Labor Management Relations (LMR)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420
Sent via email to: tracy.schulberg@va.gov

Subject: Union Notification Regarding VHA Directive 1085.01 *“Smoke-Free Policy for Employees at VA Health Care Facilities”*

Dear Ms. Schulberg:

We have received your notice concerning the Department’s intent to implement a no-smoking policy for VHA facilities (VHA Directive 1085.01). The terms being proposed would prohibit bargaining unit employees from smoking on VHA campus and would eliminate designated smoking areas, effective October 1, 2019.

When the VA endeavored to move smokers outside of VHA hospital in the late 1980’s, the NVAC and the Department reached impasse over the change to conditions of employment that would result. The Federal Service Impasse Panel imposed terms that would require the Department to provide and maintain outdoor smoking shelters at all facilities except where it would be legally or physically impossible to do so. *See Department of Veterans Affairs and NVAC, Case No. 89 FSIP 198 (April 27, 1990).*

Subsequently, the NVAC and the Department negotiated a 2008 MOU outlining the rights for bargaining unit employees to smoke on VA campuses. The MOU requires the Department to provide reasonably accessible designated smoking areas and give bargaining unit employees the right to smoke anywhere on the grounds of a VA facility as long as they avoid doing so around routinely used building entrances. This MOU is in full force and effect until such times as it is renegotiated. The MOU does not contain a reopener provision and therefore cannot be reopened outside the context of term bargaining. If the Department persists in its proposed implementation, it will violate terms of the MOU. *Is it the Department’s intention to repudiate the collectively bargained MOU?*

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Additionally, the level of recognition on this matter is national, so AFGE Locals do not have the authority to engage local management on the officials on the implementation of this policy and local facilities may not implement this policy until the MOU is validly renegotiated and a new Master Agreement is ratified.

The NVAC's National Bargaining Team is ready and willing to discuss your reopener proposals regarding smoking policy during the term negotiations. Until such time all implementation of this proposed policy should cease. ***"The Department must continue to comply with the 2008 MOU and the above referenced FSIP decision."***

If you have any questions, please contact Alma L. Lee., Council President NVAC and me by email. Thank you for your assistance in this matter.

Your truly,



Oscar L. Williams, Jr.
Chairperson, Mid-Term Bargaining Committee
2nd Executive Vice President
National VA Council #53

cc: Alma L. Lee, President National VA Council #53
NVAC Executive Committee
Ibidun Roberts, Supervisory Attorney, National VA Council #53