



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

NATIONAL VETERANS AFFAIRS COUNCIL

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

NATIONAL GRIEVANCE

NG-07/27/2021

7H/00398192

Date: July 27, 2021

To: Ophelia A. Vicks
Acting Executive Director
Office of Labor-Management Relations
U.S. Department of Veterans Affairs
ophelia.vicks@va.gov
Sent via electronic mail only

From: Sarah Hasan, 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 Failure to Allow
Union Officials to Attend New Employee Orientation in Person

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 (“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 (“Department”) concerning the Department’s failure to allow Union Officials from attending New Employee Orientation in person. To date, the Department has failed to remedy this violation, and as such, continues to violate the Master Agreement and federal law.

Specifically, the Department violated Articles 1, 2 and 49 of the MCBA; 5 U.S.C. Section 7116 (the “Statute”); and any and all other relevant articles, laws regulations, and past practices not herein specified. The Union specifically reserves the right to supplement this grievance based upon the discovery of new evidence or information of which it is not presently aware, or otherwise, as necessary.

STATEMENT OF THE CASE

Background

Under Article 49, Section 9 of the MCBA, the Union shall be entitled to make a presentation to new employees during New Employee Orientation (“NEO”), and shall be afforded the “same respect and dignity as the other presenters.” Additionally, the Department is required to inform the Union of the date, time and place where NEO will take place, with the scheduled time of NEO being the subject of local negotiations.

On July 1, 2021, AFGE Local 2779 (Gainesville, FL) President was informed the facility had held an NEO in person for new employees. Local 2779 was not notified of the NEO at all, let alone entitled to make a presentation at the NEO or attend it in person, as the Department afforded its own presenters. AFGE Local 1976 (Lake City, FL) also reported that it requested the opportunity to have face-to-face meetings with employees during NEO but was denied, in spite of the Department holding NEOs in person and allowing their own presenters to attend in that manner. Additionally, AFGE Local 3 (Milwaukee, WI) has not been permitted to attend NEO. These are representative examples of AFGE Locals that have been impacted by the Department’s failure to comply with Article 49, Section 9 of the MCBA. The Union reserves the right to supplement this list, as needed.

The Department also violated the Statute when it held NEOs without informing or involving the Union, thereby unlawfully bypassing the Union, especially in the case of Local 2779 that was not notified that NEO would take place on July 1, 2021. Further, the Department committed an unfair labor practice by interfering with the exercise of representational rights set forth in the Parties’ collective bargaining agreement. Lastly, the Department violated the Statute by refusing to allow the Union an opportunity to be present, and in some cases withholding notice, at a formal discussion, within the meaning of § 7114(a)(2)(a) of the Statute, concerning personnel policies, practices, and other conditions of employment. Such conduct violates § 7116(a)(1), (5) and (8) of the Statute, because it interferes with the union's rights under § 7114(a)(1) of the Statute to act for and represent all employees in the bargaining unit, and it demeans the union and inherently interferes with the rights of employees to designate and rely on the union for representation.

By denying the Union an opportunity to attend NEO in person, the Department is depriving the Union of the same respect and dignity it provides other presenters who are permitted to attend in person. This violation of the MCBA affects the Union’s ability to effectively meet and educate bargaining unit members about Union membership.

Violations

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

- Article 1 of the MCBA: prohibiting the Department from bypassing the Union;
- Article 2 of the MCBA: requiring the Department to comply with federal law and regulations;
- Article 49 of the MCBA: requiring the Department to inform the Union about NEOs and afford the Union the same respect and dignity it provides other presenters;

- 5 U.S.C. § 7116(a)(1), (a)(5) and (a)(8): prohibiting the Department's interference with the rights of employees to designate and rely on the union for representation, and violation of any other requirement under the Statute; 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 Department agree to the following:

- Return to the *status quo ante* and inform the Union of all NEOs and permit the Union to attend NEOs in person;
- Fully comply with its contractual obligations under Articles 1, 2 and 49 of the MCBA and its statutory obligations under 5 U.S.C. Section 7116(a);
- Distribute an electronic notice posting to all bargaining unit employees concerning the Agency's unfair labor practices by withholding notice of and/or refusing to allow the Union to attend NEO in person;
- Agree to comply with any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.
- Agree to any and all other appropriate remedies 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. The undersigned representative is designated to represent the Union in all matters related to the subject of this National Grievance.

Submitted by,



Sarah Hasan
Staff Counsel, National VA Council
AFGE, AFL-CIO
80 F Street, NW
Washington, DC 20001
Tel: 202-639-6424
Fax: 202-379-2928
hasans@afge.org

cc: Thomas McGuire, Deputy Director, OLMR
Donald Stephen, Staff Director, OLMR
Roy Ferguson, Director, Staff Operations, OLMR

Alma L. Lee, President, AFGE/NVAC

William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC

Thomas Dargon, Supervisory Attorney, AFGE/NVAC