



NATIONAL VETERANS AFFAIRS COUNCIL

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

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

NATIONAL GRIEVANCE

NG-6/29/2022

7S/401515

Date: June 29, 2022

To: Denise Biaggi-Ayer
Executive Director
Office of Labor Management Relations
Denise.Biaggi-Ayer@va.gov
valmrlitigation@va.gov
Sent via electronic mail only

From: Shalonda Miller, 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 violating the merit promotion provisions of the parties’ collective bargaining agreement and failing to meet its bargaining obligations to 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 (“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”) for repudiating Article 23, Section 8 of the MCBA when it failed to post a vacancy announcement for the contractually prescribed period. In addition, the Department made a unilateral change to conditions of employment without providing the Union notice and an opportunity to bargain. To date, the Department has failed to remedy these violations, and as such, continues to violate the parties’ MCBA and federal law.

Specifically, the Department violated Articles 2, 3, 23, 47 and 49 of the MCBA; Section §7116(a)(1) and (5) of the Federal Service Labor-Management Relations Statute (the “Statute”); and any and all other relevant laws regulations, Master Agreement provisions, and past practices not herein specified.

STATEMENT OF THE CASE

Background

On May 31, 2022, the Veterans Health Administration (VHA) VISN 15 posted a vacancy for a GS-0301-7/9 Program Specialist under announcement number CBSS-11520374-22-DPR (see vacancy announcement attached as Exhibit “A”). Pursuant to the announcement, the posting was open to current, permanent VISN 15 employees only. The vacancy was open to interested applicants from May 31 to June 2—a mere seventy-two (72) hours, or until the Department received fifty (50) applications, whichever occurred first.

The MCBA provides clear procedures for competitive vacancy announcements. The “Merit Promotions” Article 23, at Section 8, specifically provides:

Section H - Posting and Distribution of Vacancy Announcements

The Department agrees to provide a copy of vacancy announcements to the local union at the time of or prior to postings. In addition, the job analysis, without the rating guide, will be provided to the local union within the area of consideration. The Department agrees to post vacancy announcements within the area of consideration and to make copies available to employees, upon request, in accordance with the following:

- 1. Individual vacancy announcements will remain open and posted for 15 workdays;*

The Department’s actions defy Article 23, Section 8. This provision of the MCBA is meant to ensure that all interested bargaining unit employees receive adequate time to apply to the position. It also ensures that the Local Union is kept abreast of competitive job openings. Further, the provision promotes fairness and prevents the Department from engaging in preselection. Nor is there any agreement between the parties to limit vacancy announcements based on the number of applications received. Here, keeping the announcement open for only 72 hours constitutes a more than *de minimis* change in conditions of employment; therefore, the Department was also required to provide the Union advance notice and an opportunity to bargain, prior to implementing the change. Moreover, a VISN-wide vacancy would require that a copy of the announcement be sent to *all* AFGC Locals within that VISN—a requirement the Department unlawfully ignored.

The Department also violated Articles 47 and 49 of the MCBA which require that it provide reasonable advance notice to the Union prior to changing conditions of employment for bargaining unit employees as to provide the Union with sufficient information for the purpose of exercising its full right to bargain. Notices of changes impacting two or more VA Locals requires notice to NVAC.

Violations

By refusing to post the Program Specialist vacancy announcement for the required period, or provide notice to the appropriate Local Unions, the Department has violated the plain language of Article 23 of the MCBA. In addition, the Federal Labor Relations Authority (the

“Authority”) analyses whether a party’s failure or refusal to honor an agreement constitutes a repudiation of a collective bargaining by examining (1) the nature and scope of the alleged breach of an agreement; and (2) the nature of the agreement provision allegedly breached. *See Dep’t of the Air Force 375th Mission Support Squadron, Scott AFB, Illinois*, 51 FLRA 858, 862 (1996). Under the first prong, the Authority will analyze the clarity of the provision that the charged party allegedly breached. *Dep’t of the Air Force, Aerospace Maint. & Regeneration Ctr., Davis-Monthan AFB*, 64 FLRA 355, 357 (2009). Under the second prong, the Authority focuses on the importance of the provision that was allegedly breached relative to the agreement in which it is contained (*i.e.*, does the matter go to the heart of the agreement?). *Id.* Here, the clear and unambiguous contract language pertaining to vacancy announcements clearly goes to the heart of the MCBA as it provides systematic and reliable means for conducting merit promotions. It is well settled that repudiation of a collective bargaining agreement constitutes an unfair labor practice. *Dep’t of Defense, Warner Robins Air Logistics Center, Robins Air Force Base, GA and AFGE, Local 987*, 40 FLRA 106 (1991); *see also AFGE, AFL-CIO and EPA*, 21 FLRA 986, 988 (1986). Resultingly, the Department has violated Section 7116(a)(1) and (5) of the Statute when it repudiated Article 23.

The Department committed an independent violation of the Statute, as well as Articles 47 and 49 of the MCBA, when it failed to provide notice and an opportunity to bargain over changes to the vacancy announcement provisions of the MCBA. Article 2 of the MCBA requires that the Department comply with applicable federal statutes and regulations in the administration of matters covered by the MCBA. Therefore, in violating Section 7116, as set forth above, the Department also failed to comply with Article 2. Additionally, Article 3 encourages the parties to maintain a cooperative labor-management relationship in an effort to minimize collective bargaining disputes. By failing to comply with the clear and unambiguous vacancy announcement provisions of the MCBA, the Department renounced its commitments under Article 3 and necessitated further collective bargaining disputes.

The Department also violated, and continues to violate, any and all other relevant laws, regulations, customs, Master Agreement provisions and past practices not herein specified. As the investigation into these violations is ongoing, the Union specifically reserves its 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.

Remedies Requested

The Union asks that, to remedy the above situation, the Department agree to the following:

- To fully comply with its contractual obligations under Articles 2, 3, 23, 47 and 49 of the MCBA; and its statutory obligations under 5 U.S.C. § 7116(a)(1) and (5);
- To make whole any bargaining unit employee adversely impacted by the Department’s actions, to include granting priority consideration for any subsequent GS-0301-7/9 Program Specialist vacancy announcement, should they elect to apply for said vacancy;

- To distribute an electronic notice posting to all BUEs, signed by the VISN 15 Director, concerning the Department's repudiation of Article 23 of the MCBA and its failure to meet its bargaining obligations to the Union;
- To provide remedial training to responsible VISN 15 management officials on the requirements of Article 23 of the MCBA;
- To agree to comply with any and all other relevant laws, regulations, customs, MCBA provisions, and past practices not herein specified; and
- To agree to any and all other appropriate remedies in this matter.

Time Frame and Contact

This is a National Grievance, and the period for resolution of this matter is not waived until the matter is resolved or settled. If you have any questions regarding this matter, please contact the undersigned at the AFGE Office of the General Counsel.

Submitted by,



Shalonda Miller
NVAC Staff Attorney
AFGE, AFL-CIO
80 F Street, NW
Washington, DC 20001
O: 202-639-6424
F: 202-379-2928
shalonda.miller@afge.org

cc: Alma Lee, President, AFGE/NVAC
Bill Wetmore, Chairperson, NVAC Grievance & Arbitration Committee, AFGE/NVAC
Thomas Dargon, Jr., Supervisory Attorney, AFGE/NVAC

EXHIBIT A

Program Specialist

COVID-19 Vaccination Requirement

The COVID-19 vaccination requirement for federal employees pursuant to Executive Order 14043 does not currently apply. Some jobs, however, may be subject to agency- or job-specific vaccination requirements, so please review the job announcement for details. [Click here](#) for more information.

This job announcement has closed

Print

Summary

The position serves as a Program Specialist for the VISN Caregiver Support Program performing duties necessary for the receipt, intake, and indexing of health and administrative information related to the Program of Comprehensive Assistance for Family Caregivers (PCAFC) and the Program of General Caregiver Support Services (PGCSS).

[Learn more about this agency](#)

Overview

Help

Reviewing applications

Open & closing dates

05/31/2022 to 06/02/2022

This job will close when we have received 50 applications which may be sooner than the closing date. [Learn more](#)

Salary

\$44,740 - \$71,146 per year

Salary range advertised is the General Schedule Rest of USA locality - Actual pay will be determined after duty location is established.

Pay scale & grade

GS 7 - 9

Help

Locations

1 vacancy in the following locations:

- Marion, IL
- Leavenworth, KS
- Topeka, KS
- Wichita, KS

[Show more locations \(4\)](#)

Remote job

No

Telework eligible

Yes—as determined by the agency policy.

Travel Required

Occasional travel - You may be expected to travel for this position.

Relocation expenses reimbursed

No

Appointment type

Permanent

Work schedule

Full-time

Service

Competitive

Promotion potential

9

Job family (Series)

0301 Miscellaneous Administration And Program

Supervisory status

No

Security clearance

Other

Drug test

No

Announcement number

CBSS-11520374-22-DPR

Control number

657330700

[Help](#)

THIS JOB IS OPEN TO



Internal to an agency.

Current federal employees of this agency.

Clarification from the agency

This position is open to current permanent Department of Veterans Affairs, VISN 15, employees only.

Videos

Stand with Us PSA





Duties

[Help](#)

Duties include but are not limited to:

- Provides support to the VISN CSP with statistical information, including trend analysis, designed to improve the efficiency of work operations.
- Manages the budgeting and financial management for the organization.
- After budget has been approved, monitors balances, and status of projects, and recommends reprogramming of funds as needed.
- Assists in the overall administrative management for the organization. Interprets administrative policies, develops and/or implements local policies, defines administrative requirements, and provides advice to top management on related issues.
- Performs administrative management requirements with varied functions.
- Applies new policies, provides advice on requirements, maintains administrative systems, and prepares administrative paperwork.
- Develops, implements, and maintains effective office systems (including files and report automation), procedures and communications; and makes changes as necessary to ensure that smooth patterns of work and information-flow meet the programmatic needs.
- Tracks achievement on performance measures, goals, and objectives; receives and processes documents and reports in accordance with established procedures; uses software applications to draw information from a wide variety of sources in order to prepare reports; and assists in the planning, review, and reporting of data/statistical results of program studies.
- Participates in performance improvement activities related to the Caregiver Support Program.
- Utilizes various software packages (i.e., Microsoft Word, Access, Excel, Power Point, Flow Chart, etc.), to prepare special reports, forms and correspondence necessary to support the organization's functions. Prepares a variety of recurring and special action reports utilizing data from files and records maintained in databases and makes inquiries to obtain required statistical and reporting data if necessary.
- Gathers, inputs, organizes, develops, and interprets data from available information systems from field programs whose data are not captured on established or real-time systems and, when necessary, establishes new data collection procedures for specific programmatic activities or for programmatic evaluation.
- Assists VISN 15 and facility CSP staff in gathering and analyzing data for broader studies of organizational structure and or workforce utilization.
- Accumulates data and prepares formal reports that present sound analytical findings that monitor the effectiveness, efficiency and economy of functions and processes throughout the VISN 15 region.
- Performs other related duties as assigned.

Promotion Potential: The selectee may be promoted to the full performance level without further competition when all regulatory, qualification, and performance requirements are met. Selection at a lower grade level does not guarantee promotion to the full performance level.

Work Schedule: 8:00am - 4:30pm Monday through Friday

Telework: Available

Virtual: Available at any VISN 15 location.

Position Description/PD#: Program Specialist/PD09713-O/09712-O

Relocation/Recruitment Incentives: Not Authorized
Permanent Change of Station (PCS): Not Authorized
Financial Disclosure Report: Not required

 Halo

Requirements

Conditions of Employment

- You must be a U.S. Citizen to apply for this job
- Selective Service Registration is required for males born after 12/31/1959
- You may be required to serve a probationary period
- Subject to background/security investigation
- Selected applicants will be required to complete an online onboarding process
- Participation in the seasonal influenza vaccination program is a requirement for all Department of Veterans Affairs Health Care Personnel (HCP)
- Participation in the Coronavirus Disease 2019 (COVID-19) vaccination program is a requirement for all Veterans Health Administration Health Care Personnel (HCP) - See "Additional Information" below for details.

Qualifications

To qualify for this position, applicants must meet all requirements by the closing date of this announcement, 06/06/2022.

Time-In-Grade Requirement: Applicants who are current Federal employees and have held a GS grade any time in the past 52 weeks must also meet time-in-grade requirements within 30 days of the closing date of this announcement. The grade may have been in any occupation, but must have been held in the Federal service. An SF-50 that shows your time-in-grade eligibility must be submitted with your application materials. If the most recent SF-50 has an effective date within the past year, it may not clearly demonstrate you possess one-year time-in-grade, as required by the announcement. In this instance, you must provide an additional SF-50 that clearly demonstrates one-year time-in-grade.

Note: Time-In-Grade requirements also apply to former Federal employees applying for reinstatement as well as current employees applying for Veterans Employment Opportunities Act of 1998 (VEOA) appointment.

- For a GS7 position you must have served 52 weeks at the GS5
- For a GS9 position you must have served 52 weeks at the GS7

You may qualify based on your experience and/or education as described below:GS07

- **Specialized Experience:** You must have one full year of specialized experience equivalent to at least the next lower grade GS5 in the normal line of progression for the occupation in the organization. Examples include: Ability to manage multiple, competing tasks successfully. Basic understanding of various software packages and how prepare reports necessary to support organizational and programmatic functions. Basic understanding of Caregiver Support Program guidelines. **OR,**
- **Education:** One full year of graduate level education or SAA (Superior Academic Achievement). **OR,**
- **Combination:** You may also combine education and experience to qualify at this level.

GS09

- **Specialized Experience:** You must have one full year of specialized experience equivalent to at least the next lower grade GS7 in the normal line of progression for the occupation in the organization. Examples include: Advanced understanding of various software packages and how prepare/interpret reports necessary to support organizational and programmatic functions. Advanced knowledge of Caregiver Support Program guidelines. Ability to complete complex/required tasks with limited oversight.etc. **OR,**
- **Education:** A master's degree or equivalent graduate degree in a related field OR 2 full years of progressively higher level graduate education leading to such a degree in a related field OR LL.B or J.D in a related field. **OR,**
- **Combination:** You may also combine education and experience to qualify at this level.

You will be rated on the following Competencies for this position:

- Follow Directions
- Meet deadlines
- Plan and organize work
- Veteran and Customer Focus

Experience refers to paid and unpaid experience, including volunteer work done through National Service programs (e.g., Peace Corps, AmeriCorps) and other organizations (e.g., professional; philanthropic; religions; spiritual; community; student; social). Volunteer work helps build critical competencies, knowledge, and skills and can provide valuable training and experience that translates directly to paid employment. You will receive credit for all qualifying experience, including volunteer experience.

Note: A full year of work is considered to be 35-40 hours of work per week. Part-time experience will be credited on the basis of time actually spent in appropriate activities.

Applicants wishing to receive credit for such experience must indicate clearly the nature of their duties and responsibilities in each position and the number of hours a week spent in such employment.

Physical Requirements: The work is mostly sedentary. It occasionally requires carrying light objects such as files, books, and papers. No special physical qualifications are required.

For more information on these qualification standards, please visit the United States Office of Personnel Management's website at <https://www.opm.gov/policy-data-oversight/classification-qualifications/general-schedule-qualification-standards/>.

Education

There is no educational substitution at this grade level.

A transcript must be submitted with your application if you are basing all or part of your qualifications on education.

Note: Only education or degrees recognized by the U.S. Department of Education from accredited colleges, universities, schools, or institutions may be used to qualify for Federal employment. You can verify your education here: <http://ope.ed.gov/accreditation/>. If you are using foreign education to meet qualification requirements, you must send a Certificate of Foreign Equivalency with your transcript in order to receive credit for that education. For further information, visit: <http://www.ed.gov/about/offices/list/ous/international/usnei/us/edlite-visitus-forrecog.html>.

Additional information

[Read more](#)

Benefits

How You Will Be Evaluated

You will be evaluated for this job based on how well you meet the qualifications above.

IN DESCRIBING YOUR EXPERIENCE, PLEASE BE CLEAR AND SPECIFIC. WE WILL NOT MAKE ASSUMPTIONS REGARDING YOUR EXPERIENCE.

Narrative responses are not required at this time. If you are referred for consideration, you may be asked to submit additional job related information, which may include, but not limited to; responses to the knowledge, skills and abilities; completion of a work sample, and/or contact for an interview. Your resume and/or supporting documentation will be verified. Please follow all instructions carefully. Errors or omissions may affect your rating or consideration for employment.

For more information on the "Who may apply" eligibility requirements, please refer to the [OHRM Status Candidates and Other Candidate Definitions](#) document.

Placement Policy: The posting of this announcement does not obligate management to fill a vacancy or vacancies by promotion. The position may be filled by reassignment, change to lower grade, transfer, appointment, or reinstatement. Management may use any one or any combination of these methods to fill the position.

It is the policy of the VA to not deny employment to those that have faced financial hardships or periods of unemployment.

Veterans and Transitioning Service Members: Please visit the [VA for Vets](#) site for career-search tools for Veterans seeking employment at VA, career development services for our existing Veterans, and coaching and reintegration support for military service members.

Benefits

Required Documents

How to Apply

Fair and Transparent

Required Documents

To apply for this position, you must provide a complete Application Package which includes:

- Resume
- SF-50/ Notification of Personnel Action

The following documents are accepted, and may be required if applicable to your eligibility and/or qualifications for this position. Please use this [checklist](#) to make sure you have included other documents required for your application, such as a copy of your transcript (if using education to qualify), SF-50's (current/former Federal employees), documentation to support Veterans Preference claims, or ICTAP/CTAP documentation (for displaced Federal employees). You will not be contacted for additional information.

- If you are applying for promotion please include a copy of your most recent Performance Appraisal
- Performance Appraisal
- Resume
- SF-50/ Notification of Personnel Action
- Transcript

SF-50, Notification of Personnel Action (if applicable for Time in Grade and/or Eligibility):

- Most recent SF-50 if you are a current or former Federal employee
- An SF-50 showing your time-in-grade eligibility must be submitted with your application materials. If the most recent SF-50 has an effective date within the past year, it may not clearly demonstrate you possess one-year time-in-grade, as required by the announcement. In this instance, you must provide an additional SF-50 that clearly demonstrates one-year time-in-grade
- Award 50's do not provide sufficient information and will not be accepted for the purpose of verifying time-in-grade.
- Examples of appropriate SF-50's include:
 - Within grade increases at the highest grade held; or
 - Promotions with an effective date more than one year old; or
 - SF-50's at the highest grade held with an effective date more than one year old.

Veterans' Preference: When applying for Federal Jobs, eligible Veterans should claim preference for Spt (TP), 10pt (CP/CPS/XP), or for Sole Survivor Preference (SSP) in the questionnaire. You must provide a legible copy of your DD214(s) which shows dates and character of service (honorable, general, etc.). If you are currently serving on active duty and expect to be released or discharged within 120 days you must submit documentation related to your active duty service which reflects the dates of service, character of service (honorable, general, etc.), and dates of impending separation. Additionally, disabled veterans and others eligible for 10-point preference (such as widows or mothers of eligible Veterans) must also submit an SF-15 "Application for 10 Point Veteran Preference" with required proof as stated on the form. **Documentation is required to award preference.** For more information on Veterans' Preference, please visit [Feds Hire Vets - Veterans - Job Seekers - Veterans' Preference](#).

At this time, we are not accepting applications for this position. We will update this page when we do.

For more information on this position, please visit the [Job Announcement](#) page. If you have any questions, please contact the [Human Resources](#) team. We are currently not accepting applications for this position. We will update this page when we do.

For more information on this position, please visit the [Job Announcement](#) page. If you have any questions, please contact the [Human Resources](#) team. We are currently not accepting applications for this position. We will update this page when we do.

How to Apply

[Help](#)

[Read more](#)

Agency contact information

 Dawn Reidy

Phone

[816-701-3226](tel:816-701-3226)

Email

Dawn.Reidy@va.gov

Address

VHA VISN 15 Human Resources
1201 Walnut St. Suite 800

Kansas City, MO 64106-2149
US

[Learn more about this agency](#)

Next steps

[Read more](#)

Fair & Transparent

The Federal hiring process is setup to be fair and transparent. Please read the following guidance.

[Equal Employment Opportunity \(EEO\) Policy](#)

[Reasonable accommodation policy](#)

[Financial suitability](#)

[Selective Service](#)

[New employee probationary period](#)

[Signature and false statements](#)

[Privacy Act](#)

[Social security number request](#)

This job announcement has closed

 Print

Reviewing applications

 Help

Open & closing dates

🕒 05/31/2022 to 06/02/2022

This job will close when we have received 50 applications which may be sooner than the closing date. [Learn more](#)

Salary

\$44,740 - \$71,146 per year

Salary range advertised is the General Schedule Rest of USA locality - Actual pay will be determined after duty location is established.

Pay scale & grade

GS 7 - 9

Locations

1 vacancy in the following locations:



Marion, IL



Leavenworth, KS



Topeka, KS



Wichita, KS

[Show fewer locations \(4\)](#)



Columbia, MO



Kansas City, MO



Poplar Bluff, MO



Saint Louis, MO

Remote job

No

Telework eligible

Yes—as determined by the agency policy.

Travel Required

Occasional travel - You may be expected to travel for this position.

Relocation expenses reimbursed

No

Appointment type

Permanent

Work schedule

Full-time

Service

Competitive

Promotion potential

9

Job family (Series)

0301 Miscellaneous Administration And Program

Supervisory status

No

Security clearance

Other

Drug test

No

Announcement number

CBSS-11520374-22-DPR

Control number

657330700

[Return to top](#)

✓ **Account**

[Home](#)

[Profile](#)

[Documents](#)

[Saved jobs](#)

[Saved searches](#)

✓ **Help**

[Help center](#)

[About USAJOBS](#)

[FAQs](#)

[Contact us](#)

[Get started](#)

[How to...](#)

[Working in government](#)