



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-2/24/23

Date: February 24, 2023

To: Denise Biaggi-Ayer
Executive Director
Office of Labor-Management Relations
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 2042
Denise.biaggi-ayer@va.gov
Sent via electronic mail only

From: Alec Summerfield, 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 its failure to comply with Article 45 of the MCBA and unilateral implementation of changes to procedures governing the process for the deduction of Union 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 (“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 for failing to comply with Article 45 of the MCBA and failing to satisfy bargaining obligations and unilaterally requiring that Union dues deductions be processed through the Financial Services Office (“FSC”). To date VA has failed to remedy this violation, and as such, continues to violate negotiated agreements and federal law.

Specifically, the VA violated Articles 2, 3, 45, 47, 49, and the Duration of Agreement clause of the MCBA, 5 U.S.C. § 7116(a)(1), 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

The Agency’s responsibility to process Union dues deductions from federal employee

payroll stems from 5 U.S.C. § 7115. The statute requires that the Agency honor a “written assignment” from a bargaining unit employee that authorizes the Agency to deduct a certain amount from the employee’s pay to be paid to the Union as membership dues.

Article 45 of the MCBA similarly establishes that any bargaining unit employee may have dues deducted through payroll. In the federal sector, employees submit Office of Personnel Management Standardized Form 1187 (“1187”) to effect the deduction of Union dues from their paychecks. Article 45 Section 2 requires that the Union informs the Department regarding dues amounts, changes in dues amounts, the name of the local officials responsible for certifying each 1187, the dues amount to be withheld, and the name and address of the BUE paying dues. Article 45 Section 3 outlines the responsibilities of the Department regarding dues processing. The Department is required to process voluntary dues deductions in accordance with the amount certified by the Union, withhold employee dues on a bi-weekly basis, and transmit the dues payments to the Union.

Once the 1187 is submitted to the Union for certification, it is forwarded to the appropriate management official. Historically, most local VA facilities have designated the human resources department as the “appropriate administrative office” under Article 45, Section 2(B) for the processing of dues deductions.¹

Per the MCBA, it is the Department’s responsibility to process the dues deductions in the amounts certified by the local union. Further, Article 45 Section 4 explicitly requires that the dues withholding authorized by the 1187 becomes effective at the beginning of the first pay period that begins three or more workdays after the 1187 was submitted.

For years, dues deductions at VA facilities throughout the country were processed through the local human resources department. In recent years, however, the Department has reorganized its **human resources functions** from the local level to the VISN or network level, thereby removing the physical presence of HR officials from VA facilities around the country.² The Department has also reorganized several **payroll functions** from the local level to the VA Financial Services Center (“FSC”) in Austin, TX.³ Due to these reorganization efforts, presumably, the VA began the national implementation of a centralized dues deduction process through the FSC for certain VA facilities and AFGE Locals. NVAC began receiving reports in late January that the Agency had implemented a requirement that 1187s be submitted and processed through the centralized online FSC system. With this new FSC system came a host of issues constituting repeated, ongoing violations of Article 45.

Several local leaders, spanning from Florida to DC to Arizona, complained of huge processing delays due to the new FSC system. These local unions submit the new dues deductions to the FSC system but wait weeks before the 1187s are processed. Upon information and belief, this new FSC process would require the Union to submit every 1187 and the corresponding

¹ While the MCBA does not explicitly name HR as the appropriate administrative office, the Human Resources Manager is explicitly named as the point of contact for dues deductions questions and concerns.

² See *VA Human Capital Operating Plan 2020-2021*, Department of Veterans Affairs, <https://www.va.gov/oei/docs/VA2020-2021humanCapitalOperatingPlan.pdf>.

³ See VA Website Statement on the VA-FSC Internet System, <https://www.fsc.va.gov/fsc/payroll.asp>.

contractually required information individually, as opposed to all at once in an electronic communication, placing a huge burden on the Union. This is a plain violation of Article 45 Section 4, which imposes precise deadlines and obligations on the parties for the processing of dues deductions.

Further, the Department did not notify or satisfy its bargaining obligations with NVAC related to these changes. While AFGE Local 2382, for example, reported that their local leaders were briefed and trained on a new process for dues deduction, proper notice was not provided to NVAC as required when a change in conditions of employment impacts two or more VA Locals

Violations

By breaching its obligations under the MCBA and unilaterally implementing a new uniform system and process for dues deductions, the Department violated Article 45, as well as Articles 47, 49, and the Duration of Agreement clause of the MCBA, which set forth the parties' mid-term bargaining obligations at the national level should the Union elect to bargain over the matter. By refusing to bargain this new FSC dues deduction system, at the Union's election, the Department committed an unfair labor practice under 5 U.S.C. § 7116(a)(5) The Department also committed an unfair labor practice under 5 U.S.C. § 7116(a)(1) because it interfered with Union's right and ability to process new dues deductions.

Additionally, 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 5 U.S.C. § 7116, the Department also violated Article 2.

Further, Article 3 encourages the parties to maintain a cooperative labor-management relationship that is based on mutual respect, open communication, consideration of each other's views, and minimizing collective bargaining disputes. By failing to consult with the Union before implementing a new dues deduction process, the Department renounced its commitments under Article 3 of the MCBA and triggered further collective bargaining disputes.

Remedy Requested

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

- To cease and desist the implementation of any requirement that the Union submit new 1187s through the new FSC system;
- To comply with its contractual obligation that dues deductions become effective on the first pay period three or more days after the submission of the 1187;
- To return to *status quo ante* until bargaining obligations are met;
- To make-whole any impacted AFGE bargaining unit employee or AFGE Local affected by the Department's violations, including remittance of dues withholding;
- To fully comply with its contractual obligations under Articles 2, 3, 45, 47, 49, and the Duration of Agreement clause of the MCBA and its statutory obligations under 5 U.S.C. § 7116(a);
- To distribute an electronic notice posting to all bargaining unit employees, via email,

concerning the Department's unilateral implementation of changes to Union rights without bargaining, and the Department's interference with the Union's right to receive dues deductions per 5 U.S.C. § 7115;

- To comply with its obligations under federal law, regulations, and contract;
- 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, please contact the undersigned at 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.



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