



# NATIONAL VETERANS AFFAIRS COUNCIL

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

## NATIONAL GRIEVANCE NG-10/28/23

**Date:** October 28, 2023

**To:** Denise Biaggi-Ayer  
Executive Director  
Office of Labor-Management Relations  
U.S. Department of Veterans Affairs  
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*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 failure to provide contractually obligated Video Display Terminal breaks

### 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 Agency for failing to grant Video Display Terminal (“VDT”) breaks to AFGE bargaining unit employees stationed in VISN 17 and VISN 21. To date, VA has failed to remedy this violation, and as such, continues to violate contract and law.

Specifically, the VA violated Articles 2, 3, 29, and 49 of the MCBA, 5 U.S.C. § 7116(a), 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 and expand its scope beyond VISN 17 and VISN 21 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**

Article 29 of the MCBA deals with a variety of health, safety, and environmental issues at the VA. Article 29 Section 20 outlines the Department of Veterans Affairs’ (“the Agency”) obligations and employee rights regarding the use of VDTs. The article defines a VDT as a “computer like terminal which displays information on a television-like screen.”

Article 29 Section 20 restates that the policy of the Agency is to provide safe and healthful workplaces for all employees. As prolonged use of VDTs can cause ergonomic injury, Article 29 requires that the Agency allows for the usage of VDTs in a safe manner. Further, the Agency is generally required to take steps to decrease ergonomic energy due to prolonged VDT usage.

To that effect, Article 29 Section 20 Subsection F requires that where an employee uses a VDT or other keying device for at least one hour, the employee shall receive a 10-minute break for every hour of utilization. Such breaks will be in addition to regularly scheduled rest periods. Further, this section does not preclude employees from receiving rest breaks when suitable non-VDT work is not available.

Nonetheless, the Agency has prohibited at least five employees stationed at various facilities within VISN 21, represented by AFGE Locals 2654, 2152, 1206, and 1216, from utilizing VDT breaks on the basis that the computer screens they use every day do not qualify as VDTs. Additionally, VISN 17 CCC Director Jaime Trevino circulated VISN-wide guidance that incorrectly stated that the Article 29 language only refers to screens with cathode ray tube technology, as opposed to the more modern light-emitting diode technology. (Attachment A).

There is no language in MCBA Article 29 that distinguishes different types of VDTs. The definition of VDT under the Article is broad as to provide maximum opportunities to prevent ergonomic injury. Several of the impacted employees have already experienced blurry vision and eye strain due to prolonged use of VDTs without an off-screen break.

## **Violations**

By prohibiting bargaining unit employees in VISN 21 from taking their contractually entitled 10-minute per hour VDT breaks, the Agency violated Article 29 Section 20.

By circulating guidance that attempts to distinguish types of VDTs, and consequently prohibiting VISN 17 CCC employees from taking their contractually entitled VDT breaks, the Agency violated Article 29 Section 20.

By repudiating its obligations under the MCBA while it was still in effect, the Agency committed an unfair labor practice under 5 U.S.C. § 7116(a)(5).

By continuing to prohibit at least five VISN 21 employees from taking their contractually entitled VDT breaks, the Agency has repudiated its obligations under Article 49 to follow statutory and contractual prohibitions against restraint, coercion, discrimination or interference with any employee in the exercise of their rights.

Additionally, Article 2 of the MCBA requires that the Agency 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 Agency 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 prohibiting contractually entitled VDT breaks while the MCBA is still under effect, the Agency 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:

- Immediately cease and desist any policy that prohibits any AFGE bargaining unit employee from taking their contractually entitled 10 minute per hour VDT breaks.
- To fully comply with its contractual obligations under Articles 2, 3, 29, and 49, and its statutory obligations under 5 U.S.C. § 7116(a).
- To distribute an electronic notice posting to all AFGE bargaining unit employees signed by the relevant VISN Network Directors via email, concerning the Agency's repudiation of its obligations in violation of the MCBA and federal law;
- Immediately retract the incorrect VDT guidance circulated by the VISN 17 CCC Director;
- To comply with its obligations under federal law 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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