



*(December 8, 2015)*

In order to further improve the lines of communication and to respond to the concerns between the National VA Council and you our members, I have established a National VA Council Briefing. This NVAC Briefing will bring you the latest news and developments within DVA and provide you with the current status of issues this Council is currently addressing. I believe that this NVAC Briefing will greatly enhance the way in which we communicate and the way in which we share new information, keeping you better informed.

**Alma L. Lee**  
National VA Council, President

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**In This Briefing: FEDSMILL ARTICLES**  
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## **WHEN HR DISRESPECTS DECIDING OFFICIALS**

*Sitting as the deciding official over a proposed adverse action is a big deal. Not only does the DO have to respect employee Constitutional rights, but also the requirements of law, regulation, agency policy, past practice, and collective bargaining. It is not an easy job and as a result some deciding officials sleep walk through the process only doing what the HR Specialist tells them to do. That can be a very costly mistake for the agency when the employee's representative catches them doing that—as one MSPB case made clear. [Continue reading →](#)*

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## **EEOC PROVIDES ADA GUIDANCE FOR EMPLOYEES' DOCTORS**

*If you have ever been involved with a disabled employee's request for a reasonable accommodation, you know that a lot depends of what the employee's doctor does and*

writes. EEOC just gave them a little help that a number of law firms have broken down into even more helpful English. Here is one from [Constangy, Brooks, Smith and Prophete, LLP](#) that is worth reading over for future reference. It would seem to apply under the federal employee Rehabilitation Act as well.

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## **FMLA QUIZ: WHO IS RIGHT AND WHO IS NOT?**

*Here are the facts of a 2015 MSPB decision in an adverse action suspension case. See if you remember the right answer.*

*The employee left the office the morning of September 5 due to debilitating stomach cramps, making it to his car with the help of some of his colleagues and then driving far enough to get off post, where he parked until his cramping subsided. He then drove the short distance remaining to his home, where he went straight into a dark room he uses when he has a strong migraine and collapsed. Two days later he notified his supervisor that he left the office unannounced due to an urgent health need on September 5 and requested intermittent FMLA leave on an emergency basis to cover the absence. He also asked that the absence be compensated via a request for advance credit hours. The supervisor refused to approve the request for advance credit hours and charged him with AWOL because he failed to request and receive leave approval before departing the office on September 5, as required by the agency's leave instruction. The two-day delay was unacceptable. The agency maintained that, because the appellant was able to drive himself home and to call his daughter, he was therefore able to give notice before he left the office that morning and, because he did not do so, he was AWOL. It then suspended him for 30 days. Do you believe the suspension should be upheld or overturned? [Continue reading →](#)*

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