



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-4/6/17

Date: April 6, 2017

To: Kimberly McLeod
Acting Executive Director
Department of Veterans Affairs
Office of Labor-Management Relations
810 Vermont Avenue, NW
Washington, DC 20420
kimberly.mcleod@va.gov
Sent via electronic mail only

From: Thomas Dargon, Jr., Staff Counsel, National Veterans Affairs Council (#53) (“NVAC”),
American Federation of Government Employees, AFL-CIO (“AFGE”)

RE: National Grievance in the matter of the Department of Veterans Affairs for bypassing the Union and failing to notify the Union and follow contractual obligations regarding proposed changes in working conditions for bargaining unit employees at two facilities in VISN 19

STATEMENT OF CHARGES

Pursuant to the provisions of Article 45, Section 3 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 bypassing the Union and failing to notify the Union and follow contractual obligations regarding proposed changes in conditions of employment for bargaining unit employees at two facilities in Veterans Integrated Service Network 19 (“VISN 19”).

The VA, by and through its representatives and/or agents, failed to notify the national Union of proposed conditions of employment for bargaining unit employees working at the VA Montana and Sheridan VAHCS and bypassed the Union by surveying and dealing directly with bargaining unit employees. To date, the VA has failed to remedy this violation, and as such, continues to violate the MCBA and federal law.

Specifically, the VA violated the Articles 2, 3, 47, and 49 of the MCBA, 5 U.S.C. §7116(a), and any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.



STATEMENT OF THE CASE

Background

In March 2017, Ralph T. Gigliotti, Network Director of VISN 19, sent an email directly to bargaining unit employees entitled “MESSAGE FROM THE VISN 19 NETWORK DIRECTOR: Optimizing Efficiencies Between Montana & Sheridan.” In his email, Mr. Gigliotti announced that “senior staff” from the two facilities were developing a “way forward on optimizing healthcare delivery for Veterans [and] improving efficiencies between the two facilities. . . .” In his email, Mr. Gigliotti solicited “input” from employees as “subject matter experts” to assist in finding “ways to improve efficiencies” between the two facilities. Mr. Gigliotti’s email also stated “[i]t is important to note that it is not our intent to have any Reduction in Force authority.” The email then provided contact information so that employees could submit “questions” to Agency leadership.

Article 47 of the MCBA, entitled Mid-Term Bargaining, and Article 49, entitled Rights and Responsibilities, both require that the Agency provide written notice and an opportunity to bargain to the Union when proposed changes in the conditions of employment affect two or more local unions. Despite its decision to “optimize healthcare delivery” between two VA facilities, a decision impacting the working conditions of thousands of employees, the Agency failed to notify NVAC in accordance with the Master Agreement. Likewise, by refusing to consult and negotiate in good faith with the Union prior to directly surveying bargaining unit employees, the Agency also violated 5 U.S.C. §7116(a)(5).

Further, dealing directly with bargaining unit employees concerning any matter affecting the employee’s conditions of employment interfered with the Union’s rights under 5 U.S.C. §7114(a)(1) to act as the exclusive employee representative. Dealing directly with bargaining unit employees in this regard amounts to an unlawful bypass of the Union, which constitutes an unfair labor practice under 5 U.S.C. §§7116(a)(1) and (a)(5). To the extent that the Agency bypassed the Union, it has further violated 5 U.S.C. §§7116(a)(1) and (a)(5).

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, as set forth above, the Agency has failed to comply with Article 2 of the MCBA. Additionally, 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 notify and properly engage the Union concerning proposed changes in conditions of employment, and instead, surveying and dealing directly with bargaining unit employees, the Agency has failed to honor its commitments under Article 3 of the MCBA and necessitated further collective bargaining disputes.

Violation

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

- Article 2 of the MCBA: requiring the Agency to comply with federal law and regulations;

- Article 3 of the MCBA: requiring the Agency to maintain an effective, cooperative labor-management relationship with the Union;
- Articles 47 and 49 of the MCBA, requiring the Agency to notify the Union and provide an opportunity to bargain concerning proposed changes in working conditions of bargaining unit employees;
- 5 U.S.C. §7116(a)(1) and (5), requiring the Agency to communicate with the Union, not directly with bargaining unit employees, concerning changes in conditions of employment;
- Any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.


Remedy Requested

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

- To return to the status quo ante until the Agency has properly notified NVAC;
- To cease and desist the further solicitation of feedback from bargaining unit employees regarding “optimizing efficiencies” between VA Montana and Sheridan VAHCS;
- To fully comply with its contractual obligations under Articles 2, 3, 47, and 49 of the MCBA and its statutory obligations under 5 U.S.C. §7116(a);
- 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 regarding this National Grievance, please contact the undersigned at AFGE Office of the General Counsel.



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