

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-08/23/17

Date: August 23, 2017

To: Kimberly McLeod
Acting Executive Director, Labor-Management Relations
Department of Veterans Affairs
810 Vermont Ave., NW
Washington, D.C. 20420
Kimberly.mcleod@va.gov
Sent via electronic mail

From: Ibidun Roberts, Supervisory Attorney, 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 pattern and practice of failing to bargain over changes in conditions of employment pertaining to VBA employees.

STATEMENT OF 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"), the 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 its pattern and practice of failing to notify and bargain with the Union over changes in conditions of employment pertaining to VBA bargaining unit employees.

By unilaterally implementing changes prior to fulfilling its bargaining obligations with the Union, the Agency violated Articles 2 and 47 of the MCBA and 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

The Agency, by and through its agents in the Veterans Benefits Administration, has and continues to unilaterally implement changes in conditions of employment and illegally force the Union to engage in post-implementation bargaining.



The violations include the following non-exhaustive list:

- The Agency failed to notify the Union of the implementation of changes to per diem rates for bargaining unit employees required to travel for training and details. The Agency sent notices to employees on August 10, 2017 stating that it was effective immediately. This violation is the subject of a national grievance.
- The Agency made changes to VSRs performance standards and notified the Union two (2) days prior to implementation of the change, June 30, 2017. The notice and implementation failed to comply with the contractual requirements for mid-term bargaining. The Agency then refused to comply with the Union's cease and desist demand. This violation is the subject of a national grievance.
- The Agency failed to notify the Union of the implementation of QMS software, which was implemented on June 10, 2017. After the Union's demand to bargain, the Agency refused to comply with the Union's cease and desist. This illegal attempt to force post-implementation bargaining is the subject of a national grievance.
- The Agency failed to notify the Union of its change in the use of the National Transaction Report to support disciplinary actions. As above, this unilateral implementation is also the subject of a national grievance.
- Post-implementation bargaining was similarly forced on the Union for the following matters:
 - VSR Quality checklist
 - RVSR National Performance Standards
 - RVSR quality checklist
 - National Work Queue Playbook Phase 2
 - Fiduciary Program Manual and Fiduciary Program Guide Updates
 - Employee Performance Report (EPR) Feedback Survey
 - New Camp Lejeune (CLCW) Regulations and Presumptive Taking Effect on March 14, 2017
 - Modifications to Element 3 - Output in the VSR Performance Standards
 - Appeals Teams to Support Backlog Reduction
 - Education Service Mandatory Overtime
 - Lincoln Fid Hub - Revised Local Quality SOP
 - Louisville Fid Hub - Field Examiner (FE) Excluded Time Policy & Production Tracker
 - Workload and Time Reporting System (WATRS)
 - Employee Performance Report

The above instances demonstrate the Agency's pattern and practice of violating the parties' Agreement and the FSLMRS. Article 47 of the MCBA sets forth the contractual obligations of the parties for mid-term bargaining at the national level. Specifically, Section 1(C) permits the Union to "initiate mid-term bargaining at all levels on matters affecting the working conditions of bargaining unit employees." Section 2(B) requires the Agency to brief the Union within twenty (20) workdays after receiving the Union's demand to bargain. Further, 5 U.S.C. §7116(a) requires the Agency to "consult or negotiate in good faith with a labor organization."

The Agency violated the Master Agreement and federal law by unilaterally implementing its changes *prior* to fulfilling its bargaining obligations. The Agency's willful conduct has caused the Union to expend resources normally reserved for good-faith disputes.

Violation

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

- Article 47, Sections 1 and 2 of the MCBA: requiring the Agency to provide a briefing and otherwise participate in the negotiation process when the Union issues a bargaining demand;
- Article 2, Section 1 of the MCBA: requiring the Agency to comply with all applicable federal statutes;
- Section 7116(a)(5) of the Federal Service Labor-Management Relations Statute: requiring the Agency to negotiate in good faith prior to the implementation of changes to conditions of employment; and
- Any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

Remedies Requested

The Union asks that, to remedy the above referenced violations, the Agency agree to the following:

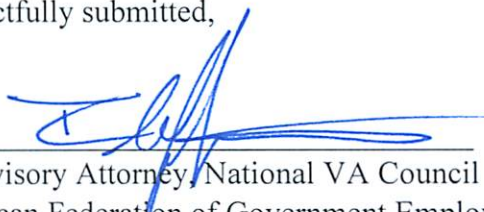
- To cease and desist its pattern and practice of unilaterally implementing changes to the working conditions of VBA employees;
- To immediately pursue and fund a joint training on obligations under the FSLMRS for the VBA management officials responsible for making decisions on changes to bargaining unit employees' working conditions and the NVAC Mid-term bargaining team;
- To fully comply with its contractual and statutory obligations under Article 47 of the MCBA and 5 U.S.C. 7116(a)(5);
- To reimburse the Union for any and all costs associated with the VBA's noncompliance, including, but not limited to, arbitration fees and attorney's fees;
- To post, and distribute to affected employees via electronic mail, an appropriate notice signed by the highest appropriate VBA official acknowledging the Agency's illegal practice and affirming its obligations under the Statute; and,

- To agree to any and all other remedies appropriate in this matter.

Time Frame and Contact

This is a National Grievance. 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 (202) 639-6424.

Respectfully submitted,



Supervisory Attorney, National VA Council
American Federation of Government Employees, AFL-CIO
80 F St. NW
Washington, D.C. 20001
Tel.: (202) 639-6424
Fax: (202) 379-2928

cc: Alma L. Lee, President, AFGE/NVAC
Mary-Jean Burke, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
Paul Fleming, Chairperson, VBA Mid-Term Bargaining Committee, AFGE/NVAC