



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-5/1/19

7S/00387610

Date: May 1, 2019

To: Kevin Nelson
Department of Veterans Affairs
Labor & Employee Relations Specialist
Office of Human Capital Management (OHCM)
VBA Central Office
kevin.nelson2@va.gov
Sent via electronic mail only

From: Shalonda Miller, 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 restricting the use of official time for VBA employees without first meeting its bargaining obligations

STATEMENT OF THE 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”), American Federation of Government Employees/National Veterans Affairs Council (“NVAC” or “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 of Veterans Affairs (“Agency” or “VA”) for creating a policy that restricts the use of official time for Veterans Benefits Administration (“VBA”) employees without first meeting its bargaining obligations with the Union. To date, the Agency has failed to remedy this violation, and as such, continues to violate the Master Agreement and federal law.

Specifically, the Agency violated Articles 2, 3, 47, 48 and 49 of the MCBA; 5 U.S.C. §7102; 5 U.S.C. § 7116(a); 5 U.S.C. § 7131(d); and any and all other relevant articles, laws, regulations, and past practices not herein specified.



STATEMENT OF THE CASE

Background

On April 1, 2019, Union officials at the National Call Center (“NCC”) at the Nashville Regional Office received a “National Call Center Excluded Time [Standard Operating Procedure]” from the Veterans Benefits Administration (“VBA”) Office of Field Operations (“OFO”) and Benefits Assistance Service. The Standard Operating Procedure (“SOP”) provided that Union officials assigned to the National Call Center may not engage in representational activities on “Mondays, Holidays and Pay Dates.” *See* SOP, attached. The SOP went into effect the same day.

By restricting official time in this manner, the Agency has unilaterally changed conditions of employment for NCC employees without providing the Union notice and opportunity to bargain. Moreover, since the issuing entity, OFO, is a national office, NVAC considers this notice to apply to Union officials in NCCs nationwide, which therefore requires that notice of the change be directed to the NVAC President or her designee. Finally, the Agency violates federal law which prohibits discrimination on the basis of participation in protected activity and requires the Agency bargain over such changes.

Violations

By failing to fulfill its obligations, the Agency 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;
- Article 47 of the MCBA: requiring the Agency notify and bargain with the NVAC President over proposed changes in personnel policies, practices, or working conditions affecting two or more local unions;
- Article 48 of the MCBA and 5 U.S.C. § 7131(d): requiring the Agency to grant official time in a manner that is reasonable, necessary and in the public interest;
- Article 49 of the MCBA: requiring the Agency bargain with the Union prior to making changes in conditions of employment;
- 5 U.S.C. § 7102: providing that union officials shall be permitted to engage in representational activities without being penalized;
- 5 U.S.C. § 7116(a)(1) and (a)(5): requiring the Agency to consult and negotiate in good faith with the Union; 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 situation, the Agency agree to the following:

- To return to the *status quo ante* until its bargaining obligations are met;
- To fully comply with its contractual and statutory obligations regarding official time;
- To make whole any bargaining unit employee adversely impacted by the Agency's restriction on official time;
- To distribute an electronic notice posting to all bargaining unit employees concerning the Agency's failure to properly notify and bargain with the Union over changes in conditions of employment; and
- 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.

Submitted by,



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cc: Alma L. Lee, President, AFGE/NVAC
Mary-Jean Burke, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
Ibidun Roberts, Supervisory Attorney, AFGE/NVAC
Tracy Schulberg, Acting Executive Director, VACO-LMR

ATTACHMENT 1

Effective April 1, 2019

**National Call Center
Excluded Time SOP**

National Call Centers are required to follow this SOP guidance for the submission, review, and approval of Excluded Time (ExT) requests. Information is provided below based upon the role and job responsibilities.

Excluded Time (ExT) Requests – Availability Adjustment

Agent Responsibilities:

PCRs shall:

- a. manage all telephone-related activities effectively and efficiently. This includes completing activities during the customer's phone call to avoid the need for ExT requests;
- b. follow ExT restrictions based upon workload requirements. The only approved ExT entries for Mondays, Holidays and Pay Dates are:
 - 1. Technology Issues and
 - 2. Urgent HR itemsNo other items will be approved on these days;
- c. obtain your coach's (or his/her designee's) approval prior to taking the ExT. This requirement applies to all categories except Technology Issues.
- d. Include the required information (time, reason, time in minutes, and comments) for each ExT request;
- e. submit ExT requests by the end of the day in which the excluded time was taken; and,
- f. provide the specific additional requirements for the categories identified below:

All Categories (except Technology Issues)
Provide the name of the coach (or designee) that pre-approved the excluded time in the comments.

Categories	Specific Additional Requirements
CRM Related Technology Issue	<ol style="list-style-type: none"> 1. Specific information on the CRM issue 2. Actions taken to address issue, e.g., referred to SME, initiated National Service Desk ticket
Employee Self Development	<ol style="list-style-type: none"> 1. Specific activity, training, etc. that was completed
Meeting with Representative	<ol style="list-style-type: none"> 1. Meeting date and time 2. Name of the union representative
Official Outbound Call	<ol style="list-style-type: none"> 1. Date and time of the outbound call 2. The call category/call type 3. The detailed reason for outbound call
Project Approved by NCC Manager	<ol style="list-style-type: none"> 1. Date and time of the project 2. Name of the project 3. Specific details about the project (purpose, activities, etc.)
Technology Issue	<ol style="list-style-type: none"> 1. Identify the involved system(s), e.g. Cisco, NICE, VBMS, etc. 2. Date and time of the problem 3. Specific description of the issue 4. Actions taken to address the issue, e.g., referred to Lead/Coach, initiated National Service Desk ticket, etc. 5. National Service Desk Ticket number (if applicable)
TMS / Ad Hoc Training	<ol style="list-style-type: none"> 1. Date and time of the training 2. TMS Course Number 3. Name of the course or training activity

Coach Responsibilities:

Coaches shall:

- a. review and appropriately resolve (approve, deny, etc.) all excluded time adjustment requests within your queue or assigned workload within 24 hours;
- b. approve requests that are:
 1. pre-approved (excluding Technology Issues);
 2. include all required information or completed data fields;
 3. consistent with the telephone data. The time provided must be accurate based on the available data; and,

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4. follows the guidance for specific excluded time restrictions based upon workload requirements.
 - Only Technology Issues and Urgent HR Items can be approved on Mondays, Pay Dates and days after Holidays, unless Special Requirements have been received via email from OFO.
 - Reject all ExT requests that do not meet the approved criteria; and,
- c. adjust the Agent's monthly performance if the Manager rejects an ExT entry.