



# NATIONAL VETERANS AFFAIRS COUNCIL

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

## NATIONAL GRIEVANCE NG-5/3/19

**Date:** May 3, 2019

**To:** Kevin Nelson  
Labor & Employee Relations Specialist  
Office of Human Capital Management  
Veterans Benefits Administration  
U.S. Department of Veterans Affairs  
[kevin.nelson2@va.gov](mailto:kevin.nelson2@va.gov)  
*sent via email only*

**From:** Thomas Dargon, Jr., 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 failing to satisfy bargaining obligations concerning the Independence Day Veterans Challenge

### 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 satisfy bargaining obligations with the Union concerning the Independence Day Veterans Challenge. To date, the VA has failed to remedy this violation, and as such, continues to violate the MCBA and federal law.

Specifically, VA violated Articles 2, 3, 47, 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.

### STATEMENT OF THE CASE

#### **Background**

On May 2, 2019, the Under Secretary for Benefits issued VBA Letter 20-19-06 entitled “Independence Day Veterans Challenge” to the field. VBA Letter 20-19-06 provided “formal notification of a 56-day production challenge” for rating claims processing teams. It established terms and conditions governing the Independence Day Veterans Challenge, including which employees were eligible to participate and how time-off awards could be used. This incentive program constitutes a change in conditions of employment. The Agency notified the Union

approximately five minutes before implementing the Independence Day Veterans Challenge. In doing so, the Agency failed to satisfy its bargaining obligations with the Union.

In refusing to notify, consult, and negotiate in good faith with the Union prior to implementing the Independence Day Veterans Challenge, the Agency committed an unfair labor practice under 5 U.S.C. §7116(a)(1) and (a)(5). 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, as set forth above, the Agency also failed to comply with 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 failing to notify, consult, and negotiate with the Union prior to implementing the Independence Day Veterans Challenge, the Agency renounced its commitments under Article 3 of the MCBA and necessitated further collective bargaining disputes. Finally, the Agency violated Article 47, Section 2, and Article 49, Section 4, which set forth the Parties' responsibilities regarding mid-term bargaining at the national level.

## **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 comply with agreed-upon procedures for mid-term bargaining at the national level;
- 5 U.S.C. §7116(a)(1) and (a)(5): requiring the Agency to consult and negotiate in good faith with the Union;
- Any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

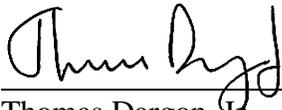
## **Remedy Requested**

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

- To cease and desist implementation of the Independence Day Veterans Challenge;
- To return to the *status quo ante* until bargaining obligations are met;
- 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 distribute an electronic notice posting to all bargaining unit employees concerning the Agency's failure to satisfy bargaining obligations with the Union prior to implementing the Independence Day Veterans Challenge;
- To make-whole any bargaining unit employee adversely effected by the Agency's improper implementation, including back pay, interest, and attorney's fees;
- 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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Ibidun Roberts, Supervisory Attorney, AFGE/NVAC  
Willie Clarke, Deputy Under Secretary for Field Operations, VBA  
Tracy Schulberg, Acting Executive Director, VA-LMR