



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-9/26/19

**Date:** September 26, 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](mailto:kevin.nelson2@va.gov)  
*Sent via electronic mail only*

**From:** Shalonda Miller, Staff Counsel, National Veterans Affairs Council #53, American Federation of Government Employees, AFL-CIO

**RE:** National Grievance in the matter of the Department of Veterans Affairs for unilaterally implementing mandatory overtime without first meeting its bargaining obligations

### 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 (“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”) for unilaterally implementing mandatory overtime for Fiduciary Hub (“Fid Hub”) bargaining unit employees without meeting its bargaining obligations.

Specifically, the Agency violated Articles 2, 3, 21 and 47 of the MCBA; the Memorandum of Understanding (“MOU”) regarding Veterans Benefits Administration (“VBA”) employees’ mandatory overtime for fiscal year 2019; 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 November 7, 2018, VBA and NVAC leadership negotiated a national MOU concerning the assignment of mandatory overtime during fiscal year 2019, see attached. The



MOU applied only to certain bargaining unit employees who worked in the Veterans Service Centers and Pension Management Centers, such as, Rating Veteran Service Representatives, Claims Assistants and File Clerks. The MOU required the Agency to notify the NVAC and bargain appropriately should the Agency later decide to expand mandatory overtime provisions beyond employees holding the job titles listed therein.

On August 30, 2019, in defiance of the MOU, Hillary Jedlicka, Fiduciary Hub Manager at the Indianapolis VA Regional Office, notified the local union that mandatory overtime would be in effect September 3 - 30, 2019 for the following Fid Hub employees: Quality Review Specialists, Field Examiners, Fiduciary Service Representatives and Legal Instrument Examiners. The notice indicated that mandatory overtime would be used to address the backlog of "Streamline Supervision" cases and claimed that there are 300 employees at the Indianapolis Fid Hub currently trained to do this work. No notice was provided to the NVAC and no opportunity was provided to the local union to bargain the matter.

An immediate demand to bargain was issued by NVAC's Mid-Term Bargaining Team. On September 3, 2019, VBA Representative Kevin Nelson, responded to the Union's demand to bargain, stating due to an "emergent need," the Agency would not comply with the Union's order to cease and desist until bargaining is complete. Mr. Nelson went on to say that the VBA would agree to bargain, post-implementation, and offered to provide the Union a briefing on September 26<sup>th</sup>. To date, the VBA has neither met nor bargained over any changes and instead unilaterally implemented mandatory overtime for Fid Hub employees.

## **Violations**

The VBA has unilaterally implemented a mandatory overtime policy that has a more than *de minimis* affect on the working conditions of bargaining unit employees. With regard to the extent to which the Agency has agreed to bargain, it has only agreed to do so post-implementation. Both actions constitute a violation of its contractual and statutory obligations. By failing to fulfill those 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 21 of the MCBA: requiring the Agency give employees ample advance notice of overtime;
- Article 47 of the MCBA: requiring the Agency bargain with the Union prior to making changes in conditions of employment;
- 5 U.S.C. § 7116(a)(1) and (a)(5): requiring the Agency to consult and negotiate in good faith with the Union;

- The 2018 MOU on VBA Mandatory Overtime: requiring the Agency to confer with the Union before expanding mandatory overtime provisions for VBA employees during fiscal year 2019; 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:

- Immediately cease and desist implementation of mandatory overtime for fid hub employees;
- Restore all bargaining unit employees affected by the unilateral implementation to the status quo, prior to implementation;
- Immediately schedule, meet and confer with the Union concerning its bargaining obligations and work with the Union until completion of its bargaining obligations;
- 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 to the mandatory overtime policy;
- Fully comply with its contractual obligations under Articles 2 and 11 of the MCBA; and
- 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