



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-6/6/17

Date: June 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 failing to follow VA policy regarding the conversion of Medical Supply Technicians (Sterile Processing) to hybrid Title 38 status

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 failing to follow VA policy regarding the conversion of Medical Supply Technicians (Sterile Processing) to hybrid Title 38 status.

The VA, by and through its representatives and/or agents, failed to follow VA policy and failed to notify the Union of any proposed change or rescission of Department policy regarding the conversion of Medical Supply Technicians (Sterile Processing) to hybrid Title 38 status. To date, the VA has failed to remedy these violations, and as such, continues to violate the MCBA, VA policy, and federal law.

Specifically, the VA violated the Articles 2, 3, 47, and 49 of the MCBA, Appendix G47 to VA Handbook 5005/76, 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

On May 28, 2014, the Agency published VA Handbook 5005/76. Revision 76 contained “mandatory procedures on staffing,” including the establishment of the “Medical Supply Technician (Sterile Processing) occupation under VA’s Title 38 Hybrid excepted service employment system in accordance with the authority established under . . . Public Law 111-163.” According to VA Handbook 5005/76, the qualification standard for Medical Supply Technician (Sterile Processing), a “mandatory procedure[] on staffing,” was “effective July 13, 2014.” This qualification standard was created pursuant to the Secretary’s authority under 38 USC §7402.

Despite the implementation of the “mandatory” staffing procedures, including the newly-created qualification standard for GS-622 Medical Supply Technician (Sterile Processing) “effective July 13, 2014,” the Agency has failed to comply with VA Handbook 5005/76. The Agency’s failure to follow this policy has negatively affected bargaining unit employees. For example, under the qualification standard in Appendix G47 to VA Handbook 5005/76, bargaining unit employees would be eligible for promotion to the GS-06 Full Performance Level after “one year of experience equivalent to the next lower grade level.” Due to the Agency’s failure to follow Appendix G47 to VA Handbook 5005/76, GS-622-05 Medical Supply Technicians (Sterile Processing) have been improperly held at the GS-05 level.

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 apparent decision not to comply with mandatory staffing procedures set forth in VA Handbook 5005/76, the Agency failed to notify NVAC in accordance with the Master Agreement. Likewise, by refusing to consult and negotiate in good faith regarding the apparent rescission of VA Handbook 5005/76, the Agency also violated 5 U.S.C. §7116(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(a), 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, the Agency failed to honor its commitments under Article 3 of the MCBA and necessitated further 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)(5): requiring the Agency to consult and negotiate in good faith with the Union concerning changes in conditions of employment;
- VA Handbook 5005/76: requiring the Agency to follow the qualification standard set forth in Appendix G47 for GS-622 Medical Supply Technician (Sterile Processing),
- Any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

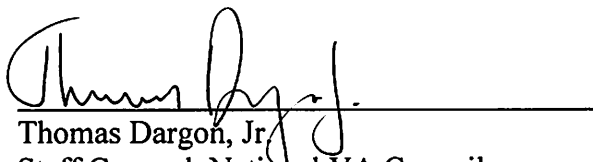
Remedy Requested

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

- To fully comply with VA Handbook 5005/76, including, but not limited to, Appendix G47;
- To make-whole any bargaining unit employee injured by the Agency's failure to comply with VA Handbook 5005/76;
- 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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cc: Alma L. Lee, President, AFGE/NVAC
 Mary-Jean Burke, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
 Cathie McQuiston, Deputy General Counsel, AFGE