



**NATIONAL VETERANS
AFFAIRS COUNCIL**
American Federation of Government Employees
AFFILIATED WITH THE AFL-CIO

October 12, 2011

DELIVERED VIA ELECTRONIC AND U.S. MAIL

Department of Veterans Affairs
ATTN: Leslie Wiggins
Deputy Asst. Secretary, Labor-Management Relations
810 Vermont Ave., NW
Washington, D.C. 20420

RE: National Grievance 10/12/2011-2

Dear Ms. Wiggins,

Please find the attached national grievance, NG-10/12/2011-2, concerning the Department of Veterans Affairs failure to comply with Master CBA Article 47, Sections 4(B), 2(A) & 2(B).

Please contact me at your earliest convenience so that we may discuss this matter.

Sincerely,

Joseph Mendoza
Staff Attorney
AFGE/NVAC

cc: Alma Lee, William Wetmore, Oscar Williams
enclosures



NATIONAL GRIEVANCE
NG-10/12/2011-2

Date: October 12, 2011

To: Leslie Wiggins
Deputy Assistant Secretary
Labor-Management Relations
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, D.C. 20420

From: Joseph Mendoza, Attorney, National Veterans Affairs Council #53 (NVAC), American Federation of Government Employees (AFGE), AFL-CIO

Subject: National Grievance in the matter of the Department of Veterans Affairs (VA) failure to comply with Article 47 of the 2011 Master Agreement between the VA and AFGE (MCBA) concerning 1) notification to the NVAC of “[p]roposed changes ... affecting the interests of two or more locals within a facility;” 2) “forward[ing] all proposed changes for which there is a bargaining obligation” to the NVAC; and 3) allowing the NVAC 20 days to submit its demand to bargain such proposed changes.

STATEMENT OF CHARGES

Pursuant to the provisions of Article 43, Section 11 of the MCBA, AFGE/NVAC (Union) is filing this national grievance against you and all other associated VA officials and/or individuals acting as agents on behalf of the VA for violations as it relates to its failure to comply with Article 47 of the MCBA as it relates to the VA’s obligation to notify the NVAC designee of 1) “[p]roposed changes ... affecting the interests of two or more locals within a facility”; 2) “forward[ing] all proposed changes for which there is a bargaining obligation” to the NVAC designee; and 3) the Union’s right to submit its “demand to bargain” within 20 days of receipt by the NVAC designee.

Specifically, on or about September 14, 2011 and several incidents prior, the VA, by and through its representatives and/or agents, has:

1. Failed and continues to refuse to comply with Article 47, Section 4(B) whereby the VA is required to notify the NVAC designee of “[p]roposed changes in personnel policies, practices, or working conditions affecting the interests of two or more locals within a facility.”

2. Failed and continues to refuse to comply with Article 47, Section 2(A) whereby the VA is required to “forward all proposed changes for which there is a bargaining obligation,” to the NVAC designee.
3. By engaging in such conduct the VA has violated MCBA provisions:
 - (a) Article 47 Section 4(B);
 - (b) Article 47 Section 2(A);
 - (c) Article 47 Section 2(B); and
 - (d) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

STATEMENT OF THE CASE

I. Background

Sometime after September 14, 2001, the Harry S. Truman Veteran Medical Center (herein “VAMC”) implemented policy HPM 543A4-268 (herein “the VA proposed change”) which dealt with probationary periods. This VA proposed change affected two or more locals: AFGE Local 3399 and AFGE Local 0903. The VAMC included employees from both Locals and the VA proposed change affected employees from both Locals. On September 14, Gail Capps, the VAMC’s Human Resource Specialist, notified Barbara J. Baney, President of AFGE Local 3399, and Dixie Wyatt, President of AFGE Local 0903 of the VA proposed change. (Attachment A). No notification was received by Oscar Williams, the Union’s National Mid-Term Bargaining Team designee, as required by the MCBA.

Furthermore, even if Oscar Williams were somehow properly notified of the VA proposed change, or notice to the AFGE Local Presidents were somehow deemed notice to the NVAC designed, the VAMC only provided the Union six days to submit its demand to bargain over the VA proposed change. The VAMC submitted the VA proposed change to the affected AFGE Local Presidents on September 14, 2011 and only allowed the AFGE Local Presidents until close of business on September 20, 2011 to provide any comments they might have. (Attachment A).

II. Violations

The VAMC’s failure to provide Oscar Williams with any notice whatsoever of the VA proposed change on September 14, 2011 or anytime thereafter, is a violation of MCBA Article 47 Sections 4(B), 2(A) & 2(B). Even if the September 14, 2011 notice to the AFGE Local Presidents were somehow also provided to Oscar Williams, such notice would still be a violation of MCBA Article 47 Section 2(B).

III. Remedy Requested

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

1. To agree to provide notice to the NVAC designee of any VA proposed change(s) that are otherwise negotiable and affect two or more locals.
2. To allow the Union at least 20 days from receipt of VA proposed change(s) to submit its demand to bargain over such VA proposed change(s) when the VA proposed change(s) affect two or more locals and are otherwise negotiable.
3. To agree to bargain on a national level over VA proposed change(s) that affect two or more and are otherwise negotiable.
4. To agree to any and all other remedies appropriate in this matter.

IV. 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 feel free to contact me at (408) 500-9266.



Joseph Mendoza
Staff Attorney
AFGE/NVAC

cc: Alma L. Lee, President, AFGE/NVAC; William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC; Oscar Williams, Chairperson, Mid-Term Bargaining Committee

Attachment

A

From: Baney, Barbara CMOVAMC
Sent: Wednesday, September 14, 2011 2:46 PM
To: Capps, Barbara G. (Gail) CMOVAMC; Wyatt, Dixie M. CMOVAMC
Subject: RE: HPM 543A4-268 Probationary Period FOR CONCURRENCE

HR will decide who is on probation? That is not correct/ same rule applies to all employees ,not whom HR chooses and also, it does not mention anything about training

Barbara J. Baney

President, AFGE

Local 3399

573-814-6607 phone

573-814-6608 fax

"The hottest place in hell is reserved for those who in times of great turmoil remain neutral."

From: Capps, Barbara G. (Gail) CMOVAMC
Sent: Wednesday, September 14, 2011 2:25 PM
To: Wyatt, Dixie M. CMOVAMC; Baney, Barbara CMOVAMC
Subject: FW: HPM 543A4-268 Probationary Period FOR CONCURRENCE

Good afternoon, ladies. We are in the process of updating some of our policies. HPM 543A4-268, Probationary Period, has had only minor changes to reflect the correct CFR reference and to update the AFGE Master Agreement reference. Please review and provide any comments you might have by September 20. Thanks!

Key words: Probation, conduct, performance

GAIL CAPPS

Human Resources Specialist

Harry S. Truman Memorial Veterans' Hospital

Columbia, Missouri

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Human Resources values your opinion!

Please take a few minutes to fill out this
quick card on your recent contact with us.

HR Quick Card

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PLEASE NOTE EMAIL ADDRESS CHANGE

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