



DEPARTMENT OF VETERANS AFFAIRS
Deputy Assistant Secretary for
OFFICE LABOR-MANAGEMENT RELATIONS
Washington DC 20420

MAY 31 2012

Ami Pendergrass, Esq.
AFGE/NVAC Staff Attorney
P.O. Box 320430
Alexandria, VA 22320

Dear Ms. Pendergrass:

This is in response to AFGE National Veterans Affairs Council's (NVAC) national grievance filed on December 27, 2011, alleging violations of 38 U.S.C. 7459, subsections (a) and (c), "the Caregivers Act," and VA/AFGE Master Agreement, Article 2, section 1. by mandating nursing staff to work overtime (OT) in non-emergency circumstances

NVAC is requesting, as a remedy, that VA agree to "(1) immediately cease and desist mandating nursing staff to work OT in situations that are not "emergencies" under the Caregivers Act, (2) avoid mandating OT by scheduling sufficient numbers of nursing staff in each and every unit, for each and every tour, at each and every VAMC, by taking into account all recurring, reasonably anticipated contingencies that may create the need for mandatory OT, including but not limited to call-outs, (3) avoid mandating OT by otherwise reasonably planning for call-outs or other contingencies that may create the need for mandatory OT, (4) avoid emergency situations by paying sufficient attention to recurring, reasonably anticipated contingencies, reasonably planning for these contingencies, and not otherwise aggravating these potential emergency situations, and (5) agree to any and all other remedies appropriate in this matter."

In an e-mail dated January 13, 2012, Mr. Edson Morales, Labor Relations Specialist advised NVAC Counsel Joseph Mendoza that the grievance did not reference which facilities, if any, have allegedly violated the "Caregivers Act." In a telephone conversation on January 26, 2012, Mr. Morales explained to Mr. Mendoza that the grievance as written was too wide-ranging and without specific details to effectively allow management to address the alleged violations. As such, Mr. Mendoza agreed to provide additional information by February 3, 2012, including which facilities are allegedly violating the Caregivers Act as well as the contract. Mr. Mendoza agreed to a 45-day extension beginning on the date he provided the additional information.

On February 2, 2012, Mr. Mendoza provided via e-mail an amended grievance with additional information to include the names of seven specific VHA facilities where NVAC claims violations of the Caregivers Act are occurring. In that e-mail message,

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Mr. Mendoza confirmed an extension of 45 days, to March 19, 2012, for the VA to respond to the grievance.

Since that time, NVAC has agreed to an additional two extensions based on the Agency's request, until June 4, 2012. The Agency requested these extensions in an effort to poll the identified facilities where NVAC claimed violations of the Caregivers Act occurs, and determine whether violations of the law exist at those facilities. As a result of research and consultation with VHA and the identified facilities, the Agency is interested in discussing with NVAC the possible resolution of the grievance. Please let us know whether you would be amenable to a conference call to discuss a possible resolution.

If you have any questions, please contact Kimberly McLeod at (202) 461-7630 or kimberly.mcleod@va.gov or Mr. Edson Morales at edson.morales@va.gov or (631) 261-4400 extension 2746.

Sincerely,



Leslie B. Wiggins
Deputy Assistant Secretary
For Labor Management Relations