



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

August 14, 2012

SENT VIA ELECTRONIC AND U.S. MAIL

Department of Veterans Affairs
ATT: Leslie Wiggins,
Deputy Assistant Secretary,
Labor – Management Relations
810 Vermont Avenue, NW
Washington, DC 20420

RE: National Grievance 8/14/2012, PIP Participation

Dear Ms. Wiggins,

Please find attached the National Grievance 8/14/2012 concerning failure to comply with Article 27, Section 10 of the Master Collective Bargaining Agreement concerning Union participation in the development of performance improvement plans.

If you have any additional questions or concerns, please contact me at (202) 480-0064.

Sincerely,

Ibidun Roberts
Staff Attorney
AFGE/NVAC

Cc: Alma Lee, William Wetmore



NATIONAL GRIEVANCE
NG-08/14/2012

Date: August 14, 2012

To: Leslie Wiggins
Deputy Assistant Secretary,
Labor – Management Relations
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

From: Ibidun Roberts 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 27 Section 10 of the MCBA concerning the Union's right to participate in the development of a performance improvement plan (PIP).

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 (Union) is filing this national grievance against you and all other associated Department of Veterans Affairs ("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 27 Section 10 of the MCBA concerning the Union's right to participate in the development of a PIP.

Specifically, on an ongoing and continuous basis, the VA, by and through its representatives and/or agents, has required the affected employee's designation of a local union representative as a prerequisite to recognizing the Union's right to participate in the development of a PIP.

In doing so, the VA has violated the following provisions:

- (1) Article 1 of the MCBA;
- (2) Section 10 of Article 27 of the MCBA; and
- (3) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

STATEMENT OF THE CASE:

I. Background

On July 16, 2012, Clinical Manager ██████████ and Fairfield Mental Health, ██████████ (██████████) sent an email to the AGFE Local 1206 President, ██████████ (██████████), that he would be placing a bargaining unit employee (BUE) on a PIP and he wanted the Local's input. ██████████ and three management officials, ██████████, ██████████, Employee/Labor Relations Specialist; and ██████████, Employee Relations Specialist; agreed to meet on July 25, 2012 at 11am with the BUE. On July 25, 2012, ██████████ arrived at 11am, but none of the parties appeared. ██████████ sent the management officials an email inquiring as to whether the meeting was still scheduled. She waited until 11:45am and was not able to reach any of the parties who were supposed to be present at the meeting. ██████████ later learned that the three management officials did meet with the BUE and implemented a PIP. ██████████ sent an email to ██████████ Chief of Human Resources, objecting to the action. Citing National HR guidance, ██████████ replied by email stating, "If the employee does not designate the union as his/her representative, there is no obligation to consult with the Union." On its face, this statement violates Section 10, Article 27 of the MCBA, which allows the Union an independent right to participate.

Similarly, Local 1594 in St. Petersburg, FL and Local 2157 in Portland, OR have also not been allowed to participate in the development of PIPs for its bargaining unit employees.

II. Violation

VA's guidance on the PIP process unlawfully conditions the Union's right to participate in the development of a PIP on the employee's designation.

III. Remedy Requested

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

- (1) To agree to rescind the guidance with the objectionable language;
- (2) To agree to submit to each Local, within 90 days of the resolution of this grievance, a list of all PIPs issued since April 26, 2012;
- (3) To agree to accept any objections submitted by a Local denied involvement in development of the PIPs in (2);
- (4) To agree to jointly develop a PIP and re-implement for a new 90-day period for any PIP objected to under (3);
- (5) To agree to make whole any employee negatively affected by the improper conduct, including, but not limited to, reinstatement; and
- (6) 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 (202) 480-0064.

Ibidun Roberts
Attorney
AFGE/NVAC

Cc: Alma L. Lee, President, AFGE/NVAC
William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC