



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

**JUN 15 2012**

Sarah Suszczyk  
Federal Deputy Director  
NAGE/SEIU 5000  
Federal Division Headquarters/Washington Regional Office  
901 North Pitt Street, Suite 100  
Alexandria, VA 22314

Dear Ms. Suszczyk:

This is in response to the National Grievance filed by the National Association of Government Employees (NAGE or Union) on April 18, 2012, relating to the "Firefighter Staffing Levels" at the "Butler, PA, Coatsville, PA, and Martinsburg, WV facilities and any other facility where NAGE represents firefighters." In its grievance, NAGE alleges that the Department of Veterans Affairs (VA) violated Article 48, Sections 1, 3(A), and 4(B), and 6 of the parties' Master Agreement, and the National Fire Protection Association (NFPA) Standards 1500 and 1710, and any other law, rule or regulation that may apply by failing to staff the above-referenced facilities with "four (4) firefighters in career fire departments" and to "follow the two-in and two-out rule which requires a minimum of four (4) firefighters to be present at structural fires," putting safety at risk.

To remedy the alleged violations, the Union requested that the Department agree to: "increase staffing levels to a minimum of four (4) firefighters per shift at each facility listed in the grievance and any other facility where firefighters represented by NAGE may be located and all other relief deemed appropriate."

In an e-mail dated May 30, 2012, you granted management's request for an extension to June 11, 2012 to communicate with the Union in an attempt to resolve the grievance. Nonetheless, you were advised that we continue to reach out to leadership to ascertain the Department's position regarding the remedy requested.

In a conference call on June 11, 2012, we discussed the grievance and possible resolution. We asked you to share your settlement proposals but you indicated that staffing levels for firefighters must be increased to four firefighters per shift in order to ensure safety. We also informed you that it is our understanding that the facility in Coatsville is not operating under a staffing Certificate of Equivalency.

You referenced the recent FLRA decision, Department of Veterans and AFGE Local 387, 66 FLRA 10 (2011), wherein the FLRA sustained an arbitrator's award requiring the Northport facility to maintain a minimum of four firefighters per shift. We explained that the Northport decision was based on facts that are specific to Northport, and does not require VA to increase firefighter staffing levels at other facilities. We also inquired why, if this is a safety concern, NAGE

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waited until 2012 to file a grievance when VA issued certificates of equivalency to the two NAGE represented facilities, Martinsburg and Butler in 1997 and 2002 respectively.

We requested a 30-day extension to determine the Department's position with respect to the grievance. You granted a 1-day extension and agreed to advise us by COB on June 12 whether you would agree to the 30-day extension.

In an e-mail dated June 12, 2012, you did not agree to the 30-day extension but instead agreed to a 3-day extension, until COB June 15, 2012, to allow the Department time to respond to the grievance. Without some additional time to ascertain the Department's position, we have no choice but to deny the grievance. Nonetheless, the Department is willing to continue engaging the Union in attempt to resolve this matter.

We reviewed Article 48, Sections 1, 3(A), and 4(B), and 6 of the parties' Master Agreement, and the National Fire Protection Association Standards 1500 and 1710. VA is in compliance with these provisions because the Martinsburg and Butler facilities are operating under Certificates of Equivalency that set forth alternative, equivalent standards that allow the facilities to operate with a minimum of three (3) firefighters per shift based on the provision of other fire safety features.

Further, the remedy that you request, requiring the Department to return to staffing the fire departments in Martinsburg and Butler with four (4) firefighters per shift, abrogates management's right to "determine the number of its employees and its internal security operations and staffing levels, as well as assign work." 5 USC 7106(a)(1).

For the foregoing reasons the grievance is denied. Nonetheless, the Agency will continue to assess this matter and would be interested in discussing with NAGE the possible resolution of the grievance. Please let us know whether you would be amenable to another extension to schedule a future conference call to discuss a possible resolution.

If you have any questions, please contact Jessica Tanner at 202-461-7620 or [jessica.tanner2@va.gov](mailto:jessica.tanner2@va.gov) or Edson Morales at [edson.morales@va.gov](mailto:edson.morales@va.gov) or (631) 261-4400 extension 2746.

Sincerely yours,

  
for  Leslie B. Wiggins  
Deputy Assistant Secretary  
for Labor Management Relations