



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

December 12, 2012

SENT VIA FAX 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 12/12/12, PT Official Time

Dear Ms. Wiggins,

Please find attached the National Grievance 12/12/2012 concerning failure to comply with Article 48, Section 10 concerning the inclusion of part-time employee positions for purpose of official time calculation.

If you have any additional questions or concerns, please contact me at (202) 306-3664.

Sincerely,

Ami M. Pendergrass
Staff Attorney
AFGE/NVAC

Cc: Alma Lee, William Wetmore



12/17/12
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NATIONAL GRIEVANCE
NG-12/12/2012

Date: December 12, 2012

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

From: Ami Pendergrass, 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 48, Section 10 of the Master Agreement concerning the inclusion of part-time employee positions for purposes of official time calculation.

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 48, Section 10 of the MCBA concerning the inclusion of part-time employee positions for purposes of official time calculation.

Specifically, on or about November 28, 2012 and continuously thereafter, the VA, by and through its representatives and/or agents, has:

- (1) Failed and continues to refuse to count all the members of the bargaining unit as determined by the Federal Labor Relations Authority (FLRA), including notably part-time bargaining unit positions, as required for purposes of determining the official time formula in Article 48 §10(A) of the MCBA

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

- (1) Article 48 §10(A); and
- (2) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

STATEMENT OF THE CASE:

I. Background

Article 48 of the MCBA provides for calculation of official time based on the formula set forth in Section 10(A), which reads:

Every local union will receive an allotment of hours equal to 4.25 hours per year for each bargaining unit position represented by that local union . . .

Based on the calculation, the local union can choose to take the formulated amount or maintain its current official time through past practice and/or local negotiations. (Article 48, Section 10(C)). The initial calculation was set for one year from the date of execution of the MCBA; after the first year expired, the calculation would be reviewed every six months.

On or about November 28, 2012, Union officials from Local AFGE 3306 (Canandaigua, NY) and AFGE 1273 (Boise, Id) were advised by local VAMC representatives that part-time employees, who were otherwise part of the bargaining unit and part of the bargaining unit certification, were no longer to be included in the count of positions necessary for calculation of official time under Article 48, Section 10(A). The Union officials were advised that the new direction was received from VA Central Office Labor Management Relations. Up until the new direction, local facilities had included all positions that were represented by the union at the local facility as part of the positions used for official time calculation.

II. Violation

Article 48, Section 10(A) states that the official time formula necessary for official time calculation accounts for all bargaining unit positions represented by that local union. The new guidance is in direct violation of the plain language of the MCBA.

III. Remedy Requested

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

- (1) To agree to cease and desist the practice of exclusion of part-time bargaining unit positions for purposes of calculation of official time;
- (2) To agree to immediately recalculate the official time of all facilities where other than full time bargaining unit positions were wrongfully excluded and immediately implement the corrected calculation

(3) To agree to provide retroactive official time lost as a result of wrongful exclusion of part-time bargaining unit positions; and

(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 (202) 306-3664.



Ami Pendergrass
Attorney
AFGE/NVAC

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