

NATIONAL GRIEVANCE
NG-03/18/10

Date: March 18, 2010

To: Leslie Wiggins
Deputy Assistant Secretary,
Labor – Management Relations
Department of Veterans Affairs
1575 I Street, NW, Suite 250
Washington, D.C. 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) full and/or partial denial of official time and associated travel time for bargaining unit members who attended the 2010 Legislative Conference held in Washington, D.C. from February 21 to 24, 2010.

STATEMENT OF CHARGES

Pursuant to the provisions of Article 42, Section 11 of the Master Agreement Between the Department of Veterans Affairs and the American Federation of Government Employees (1997) (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 the full and/or partial denial of official time and associated travel time for bargaining unit members who attended the 2010 Legislative Conference held in Washington D.C. from February 21 to 24, 2010. Specifically, since on or about February 21, 2010, the VA, by and through its representatives and/or agents, has:

- (1) Improperly denied full and/or partial official time to multiple bargaining unit employees who attended educational workshops and lobbying functions, which were not related to internal union business;
- (2) Improperly denied official time for travel time to and from the legislative conference, in violation of various contractual, past practice, and locally negotiated agreements.

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

- (1) Article 4 of the MCBA *et. al*, specifically Art. 4 § 1(A);
- (2) Article 45 of the MCBA *et. al*, specifically Art. 45 §1;
- (3) 5 U.S.C. § 7102 *et. al*;
- (4) Various contractual, past practice, and locally negotiated agreements as it relates to travel time;

MAR 19 2010

- (5) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

STATEMENT OF THE CASE:

I. Background

The American Federation of Government Employees held its annual Legislative Conference on Sunday February 21, 2010 to Wednesday, February 24, 2010 at the Hyatt Regency on Capitol Hill in Washington D.C. The purpose of the four day conference was to give members of AFGE, including employees of the VA, the ability to attend educational workshops regarding legislation and to lobby legislators on the Hill concerning issues affecting the working conditions of employees at the VA.

The agenda, attached in Appendix A, included classes covering topics such as recent legal developments in the EEOC and analysis and implementation of Executive Order 13511, establishing labor management forums. Bargaining unit members discussed current issues affecting the workforce and potential legislative fixes during its various district meetings. Members also had the opportunity to meet with Hill staffers concerning policies affecting VA members at both the Sunday VA Council Meeting and the District Congressional Breakfasts on Tuesday and Wednesday mornings. On Tuesday and Wednesday of the conference, each bargaining unit member had the opportunity to meet his or her representative and staff face-to-face in order to lobby concerning issues affecting VA employees in his or her congressional district.

Bargaining unit members attended the conference from all areas of the country, therefore necessitating travel time to and from the conference. Though the travel day to Washington occurred on the weekend, some employees may have been scheduled to work those days, and travel home was scheduled for Thursday, which for many is during the normal work week. This required many members spend two full days in travel mode.

II. Violation

Article 45 of the MCBA defines the appropriate uses for official time, recognizing that the complexities born of coordinating a large bargaining unit requires the Union to engage in various types of representational activities. Among these representational activities are engaging in “appropriate lobbying functions” and, as defined in Article 4 of the MCBA, engaging in the Union-sponsored training that serves the “mutual benefit” of both labor and management. Since, especially in the case of lobbying, members are required to travel in order to perform these functions, official time for travel is necessary and has historically been granted to allow members to perform these contractually permissible functions.

Since on or about February 21, 2010, various VA local departments denied partial and/or full use of official time for both attendance and travel to bargaining unit members who choose to attend and engage in these educational and lobbying opportunities. As stated above, Articles 4 and 45 specifically permit engagement by bargaining unit members in these activities and denial of time

for these activities is in violation of the MCBA, statute, and other related local past practices and agreements.

III. Remedy Requested

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

- (1) To grant as much as 32 hours of official time to all bargaining unit employees who were partially or fully denied time for attendance to the legislative conference and as much as 8 hours of official time for employees who had to travel to Washington D.C. to participate in the conference.
- (2) To agree to work with the Union in developing an arrangement whereby affected bargaining unit employees can be made whole.
- (3) To agree to grant the arbitrator exclusive jurisdiction for 120 days after final decision in order to assist with any issues raised concerning enforcement and/or compliance.

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

APPENDIX A

**American Federation of Government Employees, AFL-CIO
2010 Legislative Conference Agenda
Hyatt Regency on Capitol Hill, Washington, D.C.**

SUNDAY, FEBRUARY 21

7:30 – 10 am	CIS Council 119 Meeting	Congressional A
8 am – 12:30 pm	VA Council Meeting	Columbia AB
9 am – 12:45 pm	DEFCON Meeting	Capitol Room
9 am – 5 pm	Registration	Regency Foyer
1 – 5 pm	<u>PLENARY SESSION</u>	Regency Ballroom

National Officer Speeches

**AFGE Everyday Heroes Award Presentation
to Fort Hood police officers
Kim Munley and Mark Todd**

Legislative Issues Briefing

6 – 8 pm	EPA Council Meeting	Yellowstone/Everglades
6 – 9:30 pm	SSA Council 220 Meeting	Capitol Room

MONDAY, FEBRUARY 22

7:30 – 8:30 am	BOP Council 33 Meeting	Yellowstone/Everglades
7:30 am – Noon	Late Registration	Regency Foyer
8 am – 5 pm	Law Enforcement Steering Comm. Meeting	Congressional B
8:30 – 11:30 am	<u>WORKSHOPS</u>	
	1. TSA Campaign: Why We Fight!	Regency A
	2. Labor Management Forums	Capitol A/B
	3. Strengthening through Sourcing	Congressional A
	4. Equal Employment Opportunity	Ticonderoga
10 am – 3 pm	Legal Rights Clinic	Yosemite

	<i>(By appointment only – sign up during Registration)</i>	
Noon – 2 pm	<u>CIVIL RIGHTS LUNCHEON</u>	Ticonderoga/Yorktown/ Valley Forge
	Delegate Eleanor Holmes Norton (D-DC)	
	Senator Mark Begich (D-AK)	
2:30 – 5 pm	<u>GENERAL SESSION</u>	Ticonderoga/Yorktown/ Valley Forge
	Liz Shuler, Secretary-Treasurer, AFL-CIO	
	Senate Majority Whip Dick Durbin (D-IL)	
	Representative Chris Van Hollen (D-MD)	
	Dan Gordon, Administrator, OMB Office of Federal Procurement Policy	
4:30 – 7 pm	District 4 – R. Witiak Reception	Billy Goat Tavern (Across From Washington Court)
5 – 7 pm	VA Council Title 38 Group Meeting	Columbia C
5 – 8 pm	DFAS C-171 Meeting	Glacier
7 – 10 pm	District Meetings –	
	District 2	Capitol Room B
	District 3	Columbia Foyer
	District 5	Valley Forge
	District 6	Congressional A
	District 7	Concord
	District 8	Yosemite
	District 9	Bunker Hill
	District 10	Ticonderoga
	District 11	Congressional B
	District 12	Yellowstone/Everglades

	District 14	Capitol Room A
TUESDAY, FEBRUARY 23		
7:30 – 10 am	District Congressional Breakfasts –	
	District 5 and District 12	B339 Rayburn HOB
	District 3	Capitol Room A
	District 6	Valley Forge
	District 4 and District 14	Ticonderoga
8 – 10 am	District 11	Columbia Foyer
9 – 11 am	District 2	Yorktown
8 am – 5 pm	Law Enforcement Steering Comm. Meeting	Congressional B
10 – 11:30 am	Member Benefits Workshop	Congressional A
10:45 am	Departure for Rally on TSO Collective Bargaining Rights (Buses will transport members)	Hyatt Hotel Lobby
11:30 am – 1:30 pm	Rally for TSO Collective Bargaining Rights	AFL-CIO, White House
1 – 5 pm	Legal Rights Clinic <i>(By appointment only – sign up during Registration)</i>	Glacier
10 am – 5 pm	Legislative Appointments	Capitol Hill
6 pm	District 4 Meeting	Capitol Room A

WEDNESDAY, FEBRUARY 24

7:30 – 10:30 am	District Congressional Breakfasts –	
	District 9 and 10	Concord/Lexington Bunker Hill
8 – 10 am	District 7	B340 Rayburn HOB
8 am – 1 pm	Law Enforcement Steering Comm. Meeting	Congressional B

8:30 am – 1 pm	Editors' Association Conference	Capitol Room
10 am – 5 pm	Legislative Appointments	Capitol Hill
9:30 – 11:30 am	District of Columbia Worker Issues	Yosemite
12 – 1 pm	Law Enforcement Officers Steering Comm. Press Conference	Congressional B

THURSDAY, FEBRUARY 25

Departure