NATIONAL GRIEVANCE
NG-8/29/25

Date: August 29, 2025

To: Denise Biaggi-Ayer
Executive Director
Office of Labor Management Relations
U.S. Department of Veterans Affairs
Denise.Biaggi-Ayer@va.gov
Sent via electronic mail only

From: Shalonda Miller, Staff Counsel, National Veterans Affairs Council (#53) ("NVAC"), American Federation of Government Employees, AFL-CIO ("AFGE")

RE: **National Grievance against the Department of Veterans Affairs for refusing to recognize the Union's designated representatives**

STATEMENT OF THE 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 (2023) ("MCBA"), the American Federation of Government Employees/National Veterans Affairs Council #53 ("NVAC" or "the Union") is filing this National Grievance against you and all other associated officials and individuals acting as agents on behalf of the Department of Veterans Affairs ("Department" or "VA") for refusing to recognize the Union's designated representatives.

Specifically, the Department violated, and continues to violate, Articles 2, 3, 17, 47, and 49 of the MCBA, 5 U.S.C. § 7102, 5 U.S.C. § 7116(a), and any and all other relevant articles, laws, regulations, and past practices not herein specified. The Union reserves the right to supplement this National Grievance based upon the discovery of new evidence or information of which it is not presently aware, or otherwise, as necessary.

STATEMENT OF THE CASE

Background

On March 27, 2025, President Donald J. Trump issued Executive Order 14251 (Exclusions From Federal Labor-Management Relations Programs) ("EO 14251"). 90 Fed. Reg. 14553. EO 14251, which is subject to numerous legal challenges, purports to eliminate collective bargaining rights for approximately two-thirds of the federal workforce, including more than 300,000 AFGE bargaining unit employees. EO 14251 exempted police officers, firefighters, and security guards from its coverage (hereafter collectively referred to as "Exempted Employees").

On August 6, 2025, the Department apparently became the first cabinet level agency to terminate collective bargaining agreements based on EO 14251. Specifically, VA Secretary Douglas A. Collins issued a notice to AFGE and NVAC leadership unilaterally terminating the parties' MCBA, to include all amendments, local supplemental agreements, and memoranda of understanding at all levels, except insofar as those agreements cover Exempted Employees. This action plainly contravenes guidance previously issued by the Office of Personnel Management[1] ("OPM") and contradicts representations made by the government attorneys in federal litigation.

Secretary Collins also issued internal guidance concerning the termination of the MCBA. The VA Office of the Chief Human Capital Officer issued a Bulletin with instructions to VA management officials related to bargaining, grievance and arbitration proceedings, official time, and the use of government property and other resources by labor unions ("OCHCO Bulletin"). *See* Exhibit B. Specific to the issue of representation, the OCHCO Bulletin advised, in relevant part:

- The Department will only **collectively bargain with…unions representing Exempted Employees**….
- The Department will only participate in negotiated grievance or arbitration procedures that cover Exempted Employees….**Negotiated grievance and arbitration procedures shall be limited for use by union representing Exempted Employees**….
- The Department will only authorize the use of government property and other government resources for union business for the **unions that represent Exempted Employees**….

Exhibit B at 2-3 (emphasis added). **It is undisputed that AFGE/NVAC and its affiliated Locals represent Exempted Employees in each of the positions described above**. Nevertheless, in hastily dismantling its relationship with AFGE/NVAC, the Department is refusing to recognize duly designated representatives under the pretext that many of them have been removed from the bargaining unit and are therefore barred from engaging in representational duties because they are not, themselves, Exempted Employees. This conduct reflects a deliberate and coordinated effort by the VA to undermine the Union's representational capacity, in direct violation of the MCBA and the Statute. The following examples illustrate the breadth and consistency of these violations across multiple facilities:

- **VA Eastern Oklahoma Health Care System**: A Muskogee VA management official at a townhall declared that "Hybrid Title 38s, Title 38s and Title 5 employees can't have Union representation," asserting that only nonsupervisory police officers were entitled to representation—and only by someone "from their like field," as opposed to a duly appointed representative from AFGE Local 2250.

- **VA New Jersey Health Care System (Lyons Campus)**: The Office of the Director informed AFGE Local 1012 that union representatives in nonexempted occupations could no longer access union office space or exercise other representational rights.

- **VISN 10**: A Human Resources Representative told the AFGE Local 2092 President that, as a non-exempted employee, he would lose access to union office space and that AFGE would need to appoint a representative through VA Central Office Labor Management Relations

[1] OPM's "Frequently Asked Questions" concerning EO 14251 notes: "Agencies should not terminate any CBAs until the conclusion of litigation or further guidance from OPM directing such termination. *See* Exhibit A.

("VACO-LMR"). The President was also prohibited from holding a Union-sponsored employee appreciation event on VA Ann Arbor Medical campus grounds.

- **Marion VA Medical Center**: A Supervisory ER/LR Specialist informed the AFGE Local 2483 President that he would no longer be recognized as Local President due to his non-bargaining unit status.

- **Wilkes-Barre VA Medical Center**: The Director refused to recognize the AFGE Local 1699 President, denied her access to the union office, and ignored the Union's demand to bargain. The Director stated that "only a Police Officer may represent a BUE."

- **Miami VA Medical Center**: The Executive Director told the AFGE Local 515 President that only employees in exempted positions—specifically police, firefighters, and security guards—could serve in union leadership roles or be members of the Union.

In addition to targeting current employees, the VA has extended this restrictive interpretation to non-employee retirees serving as Union Representatives, further eroding the Union's ability to fulfill its representational obligations. Taken together, these examples reveal a consistent and unlawful campaign by the VA to marginalize AFGE/NVAC and its Locals by narrowly redefining who may serve as a Union representative. This not only violates the MCBA and the Statute but also undermines the fundamental principles of collective bargaining and employee representation. The Union expressly reserves the right to supplement this Grievance with additional allegations as further information becomes available.

The Department acknowledges in its OCHCO Bulletin that it must continue to comply with the Statute and MCBA with respect to Exempted Employees. And it is well-settled that the Union has the right to designate its representatives, a right promulgated in 5 U.S.C. § 7102 and mirrored in Article 17, Section 2 of the MCBA, which states:

> Under 5 USC 7102, each employee shall have the right to form and join a Union, to act as a designated Union representative, and to assist the Union without fear of penalty or reprisal. This right shall extend to participation in all Union activities including service as officers and stewards/representatives. A bargaining unit employee's grade level, compensation, title, or duties shall not limit the employee's right to serve as a Union official, to represent the bargaining unit or to participate in any Union activities.

Nevertheless, VA officials have refused to recognize, let alone substantively engage with, designated AFGE representatives. Management and HR officials across the country have contorted the Secretary's termination to mean that only Exempted Employees may serve in a representational capacity on behalf of the Union. When confronted with evidence of these violations, VACO-LMR leadership confirmed to NVAC representatives that, "**non-exempted employees can act as union reps on their own personal time.**" However, despite the Union's requests, the Department refused to disseminate this clarifying guidance. This troubling lack of consistency and transparency has resulted in widespread confusion and the erosion of representational rights across the VA system.

Violations

Under 5 U.S.C. § 7102, federal employees are granted the statutory right to act as representatives of a labor organization, and this includes the Union's authority to designate its own representatives for purposes of collective bargaining and other representational activities. In addition, the Department's refusal to acknowledge retirees as Union Representatives is inconsistent with established FLRA precedent. In *Social Security Administration and AFGE Local 1760*, 65 F.L.R.A. 110 (2011), the Authority upheld an arbitrator's decision affirming that a retired union president could continue to perform representational duties, including access to agency systems, under the terms of the collective bargaining agreement. The FLRA found no statutory or contractual prohibition against retirees serving in such roles and emphasized that past practice supported the continued recognition of retired representatives. The Authority has also recognized that a union's right to designate its representatives extends to non-employees who may also access an agency's premises to conduct representational activities. *Bureau of Indian Affairs Isleta Elem. Sch.*, 54 F.L.R.A. 1428, 1438 (1998). These decisions directly contradict the Department's current posture and further illustrate its departure from lawful and negotiated norms.

By refusing to recognize duly authorized Union officials, the Department violated 5 U.S.C. § 7102 and Article 17 of the MCBA. The contractual violation further amounts to repudiation under 5 U.S.C. § 7116(a). By unilaterally changing conditions of employment, the Department violated the mid-term bargaining obligations in Articles 47 and 49, as well as the statutory obligation to bargain in good faith under 5 U.S.C. § 7116(a). Lastly, the Department's failure to comply with relevant contractual, regulatory, and statutory obligations violated Articles 2 and 3. The Union reserves the right to supplement this list of violations, as necessary.

Remedies Requested

The Union requests that to remedy the above situation, the Department agree to the following:

- To return to the *status quo ante*;
- To recognize and fully engage with AFGE Union Representatives as required by federal law and contract ;
- To make-whole any AFGE bargaining unit employee or representative adversely affected by the Department's violations, including all remedies appropriate under the Back Pay Act;
- To fully comply with the MCBA and Federal Service Labor-Management Relations Statute;
- To issue an electronic notice posting to all AFGE bargaining unit employees, signed by the VA Secretary, concerning the Department's violations; and
- To any and all other remedies appropriate in this manner.

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, please contact the undersigned at the AFGE Office of the General Counsel. The undersigned representative is designated to represent the Union in all matters related to the subject of this National Grievance.

_____

Shalonda Miller
Staff Counsel, National VA Council
Office of the General Counsel
AFGE, AFL-CIO
80 F Street, NW
Washington, DC 20001
tel: 202-639-6424
efax: 202-379-2928
shalonda.miller@afge.org

cc: Alma L. Lee, President, AFGE/NVAC
William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
Thomas Dargon, Jr., Deputy General Counsel, AFGE/NVAC

Frequently Asked Questions

Executive Order 14251:
"Exclusions from Federal Labor-Management Relations Programs"

Q1: What do agencies need to do to terminate applicable CBAs?

A1: Agencies should not terminate any CBAs until the conclusion of litigation or further guidance from OPM directing such termination. Agencies should review relevant case law and consult with their General Counsels regarding next steps with any existing CBAs. See *Department of Labor*, 70 FLRA 27 (FLRA 2016).

Q2: Should agencies decertify bargaining units of covered agencies or subdivisions?

A2: Agencies should not file any decertification petitions until litigation regarding *Exclusions* has been resolved. **Only after the litigation is final and the Administration has assessed the implications of its outcome** should agencies consider filing Federal Labor Relations Authority (FLRA) petitions to clarify that bargaining units include only those positions not exempted from collective-bargaining requirements under *Exclusions*. Agencies should consult their General Counsels for updates on the litigation, and before taking steps to file a decertification petition in compliance with the *Exclusions* order.

Q3: Should agencies amend current filings with the FLRA for exceptions to arbitration awards where an arbitrator ordered relief for a bargaining unit covered under *Exclusions*?

A3: Agencies should ask the FLRA to hold these cases in abeyance pending the outcome of litigation, where practicable. In cases with pending deadlines for submissions, agencies should ask the FLRA to suspend or extend those deadlines until the conclusion of the litigation. If the FLRA does not suspend deadlines or hold cases in abeyance agencies should take the position that the union lacks standing as it is not recognized as a result of *Exclusions*.

Q4: In any ongoing proceedings in which an agency is asked to submit a statement of position regarding an unfair labor practice charge under investigation by the FLRA, should agencies submit a statement?

A4: Yes. However, agencies should raise to the appropriate FLRA regional office that the relevant agency or agency subdivision is no longer subject to provisions of the Federal Service Labor-Management Relations Statute (FSLMRS) per the *Exclusions* order and, therefore, the union no longer has standing to file a charge or the FLRA to issue a complaint.

Q5: Should agencies and agency subdivisions covered by *Exclusions* continue to participate in the FLRA's Collaboration and Alternative Dispute Resolution Office (CADRO) with labor unions representing police officers, security guards, and firefighters? What about bargaining units comprised of other occupations?

A5: Agencies may continue collective bargaining activities, including dispute resolution efforts with CADRO and other third-party proceedings with unions representing police officers, security guards, and firefighters, provided that these unions continue to be recognized consistent with

Exclusions. However, for matters involving a dispute for any unit that represents positions now excluded under Executive Order 12171, as amended, agencies should continue those dispute resolution activities only if they are doing so independently of any requirements of a CBA and not relying on any provisions of Chapter 71 to compel their participation.

Q6: Should agencies change the bargaining unit status codes on employees' SF-50s?

A6: Not at this time. Agencies should wait until litigation is resolved before doing so.

Q7: What is meant by the term "subdivision?"

A7: The term "subdivision" refers to any organization, office, or component that is subordinate to an agency or department head, as well as any division within those organizations, offices, or components.

Q8: What is meant by Section 2 of Executive Order 14251 (*Exclusions*) where it states: "the immediate, local employing offices of any agency police officers, security guards, or firefighters…"

A8: This means an agency or subdivision that directly supervises and employs such employees at the local level. Although this category will generally include purely the law enforcement officers in question, in some cases this may also include the administrative staff who support law enforcement operations.

Q9: What actions should agencies take regarding bargaining units that represent both (i) employees in positions *not* subject to exclusion (e.g., police officers, security guards, firefighters) and (ii) agency employees now *excluded* under the President's new directive?

A9: Agencies should preserve the rights of employees not excluded from collective bargaining including continuing to participate in third-party procedures (e.g., arbitrations) that are focused solely on conditions of employment, contractual and statutory obligations, or other matters limited to these employees. For employees no longer included in a bargaining unit, agencies should follow the direction provided in this guidance. If agencies need further guidance, please contact OPM at awr@opm.gov.

Q10: If an employee is no longer permitted to join or form a labor organization under the FSLMRS, can he or she strike against the Government while serving as a federal employee?

A10: Under 5 U.S.C. § 7311, employee strikes against the Government of the United States are prohibited for all Federal employees, irrespective of whether they are in a bargaining unit.

Q11: Can grievances initially filed under a negotiated grievance process (5 U.S.C. 7121) be transitioned to an administrative grievance process?

A11: Yes, provided the matter is not excluded by the agency's administrative grievance procedure and the grievant timely requests a transition to the administrative grievance procedure.

Q12: Are unions ineligible as employee representatives under the FSLMRS permitted to establish

consultative relationships with agencies pursuant to 5 C.F.R. Part 251?

A12: OPM's regulations "[provide] a framework for consulting and communicating with **non-labor organizations** representing Federal employees and with other organizations on matters related to agency operations and personnel management." A union is a "labor organization," as defined in 5 U.S.C. 7103(a)(4), and is therefore, not covered by 5 C.F.R. Part 251 whether they represent bargaining unit employees at an agency or not.

Q13: With announcement of the new Executive Order, *Exclusions*, are covered agencies still required to submit data to OPM regarding taxpayer-funded union time (TFUT), collective bargaining costs, and other labor relations data points?

A13: Yes. Please continue to collect and timely submit agency labor relations data as requested, even if the agency or subdivision therein is now exempted from the provisions of the FSLMRS.

Q14: What should we do with agreements that are pending Agency Head Review (AHR) and cover newly excluded agencies, subdivisions, or partial groups?

A14: Agencies should exercise their agency head authority under 5 U.S.C. § 7114(c) to disapprove any agreement currently undergoing review for units that are no longer recognized within a covered agency or subdivision. Agencies should cite to *Exclusions* or, if applicable, the presidential memorandum *Limiting Lame-Duck Collective Bargaining Agreements That Improperly Attempt to Constrain the New President*, as their basis for disapproval. For agreements that include positions not subject to exclusion from collective bargaining (e.g., police officers, security guards, firefighters), agencies should conduct AHR as they normally would. Lastly, for agreements that include a mix of excluded and included units, agencies should continue AHR and include a note that the agreement only covers those not excluded by Executive Order 14251 and that the agreement has no applicability to other employees.

Q15: For agencies that are currently bargaining with unions, are there any concerns with solidifying and executing agreements such as tentative agreements or memoranda of understandings or agreements (MOUs or MOAs)?

A15: Agencies should suspend such negotiations until the conclusion of litigation.

Q16: In Section 2 of *Exclusions,* 1-419 states: "The following agencies or subdivisions of each Executive department listed in section 101 of title 5, United States Code, the Social Security Administration, and the Office of Personnel Management: (a) Office of the Chief Information Officer (OCIO); (b) any other agency or subdivision that has information resources management duties as the agency or subdivision's primary duty." Does this apply to all OCIO offices within an agency not listed in *Exclusions*?

A16: This provision applies only to CIO offices in the Executive Departments (see 5 U.S.C. 101), OPM, and the Social Security Administration, as well as the subordinate agencies and offices under those Departments/agencies.

Q17: What does information resources management mean as used in Section 2 of *Exclusions*?

A17: The Paperwork Reduction Act defines "information resources management" at 44 U.S.C. § 3502(7), as "the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public."

U.S. Department of Veterans Affairs

Office of the Chief Human Capital Officer

OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER (OCHCO) BULLETIN

SUBJECT: Department of Veterans Affairs (VA) implementation of Executive Order 14251, *Exclusions from Federal Labor-Management Relations Programs*

1. **PURPOSE:** On March 27, 2025, President Trump signed Executive Order (EO) 14251: *Exclusions from Federal Labor-Management Relations Programs,* exempting the Department of Veterans Affairs (VA) from Chapter 71 of title 5 of the United States Code, the Federal Service Labor-Management Relations Statute (FSLMRS or Statute). EO 14251 exempted police officers, firefighters, and security guards from its coverage (collectively referred to as Exempted Employees). EO 14251 also delegated authority to the Secretary to issue an order suspending the application of the EO to any organizational component of VA. On April 17, 2025, Federal Register Notice 16427 was published, exempting certain non-national unions from EO 14251's coverage (collectively referred to as Exempted Unions).[1] Accordingly, except as described herein, the VA is no longer subject to the Statute.

2. Pursuant to EO 14251, the Statute applies to Exempted Employees at VA and the VA is still subject to the requirements of the Statute for those employees. Additionally, pursuant to EO 14251 and Federal Register Notice 16427, the Statute applies to all bargaining unit employees represented by one of the Exempted Unions and the VA is still subject to the requirements of the Statute for those employees.

3. On August 6 2025, pursuant to EO 14251, the Secretary terminated master collective bargaining agreements, and all amendments, local supplemental agreements, and memoranda of understanding at all levels (collectively referred to as CBAs) with the American Federation of Government Employees (AFGE), the National Association of Government Employees (NAGE), the Service Employees International Union (SEIU), the National Nurses Organizing Committee/National Nurses United (NNOC/NNU), and the National Federation of

[1] The Exempted Unions currently include: Laborers International Union of North America (LIUNA); Western Federation of Nurses and Health Professionals (WFNHP), Veterans Affairs Staff Nurse Council (VASNC) Local 5032 at the VA Medical Center Milwaukee, WI; International Association of Fire Fighters (IAFF-99) at the VA Medical Center, Little Rock, AR; United Nurses Association of California/Union of Healthcare Professionals (UNAC/UHCP) at the VA Medical Center, Loma Linda, CA; Teamsters Union Local 115 at the Department of Veterans Affairs Medical Center, Coatesville, PA; International Brotherhood of Electrical Workers (IBEW) Local 2168 at the Cheyenne WY VA Medical Center; and, International Association of Machinists and Aerospace Workers, (IAMAW) Local 1998 at the VA National Cemetery of the Pacific in Honolulu, HI.

Federal Employees (NFFE), except insofar as those agreements cover Exempted Employees.[2]

4. Taking this step removes barriers in VA's ability to effectively execute its mission without delay, resulting in a more responsive and accountable workforce that better serves Veterans and safeguards American interests.

5. **PROCEDURES:** VA will no longer follow the Statute, CBAs, or any other labor obligations with respect to any non-exempted bargaining unit employee represented by AFGE, NAGE, SEIU, NNOC/NNU, and NFFE. The Statute and CBAs only apply to Exempted Employees (i.e., employees in occupational series 0083 (Police Officers), 0081 (Firefighters) and 0085 (Security Guards)) and the bargaining unit employees represented by one of the Exempted Unions (i.e., the unions listed above in footnote 1). Effective immediately, all Department organizational components will take the following actions:

   A. **Bargaining:** The Department will only collectively bargain with the Exempted Unions and unions representing Exempted Employees. All other negotiations shall immediately cease.

   B. **Grievance and Arbitration proceedings:** The Department will only participate in negotiated grievance or arbitration procedures that cover Exempted Employees or bargaining unit employees represented by one of the Exempted Unions. Negotiated grievance and arbitration procedures shall be limited for use by unions representing Exempted Employees and Exempted Unions. Any other grievance or arbitration procedures currently underway shall immediately cease. If applicable, the administrative grievance procedures outlined in VA Handbook 5021 remain available to employees for use.

   C. **Taxpayer-Funded Union Time (TFUT):** The Department will only authorize TFUT (official time) for Exempted Employees and the employees represented by Exempted Unions. All other requests for TFUT will be denied. All employees who encumber positions not exempted from EO 14251's coverage must transition to perform Agency work 100% of their paid time, in their position of record. Management will immediately develop transition plans to verify the competence of employees previously on TFUT, provide any

[2] NNOC/NNU and NFFE do not represent any Exempted Employees. Accordingly, VA no longer recognizes NNOC/NNU or NFFE as the exclusive labor representative of any VA bargaining unit employee.

necessary training, and return them to their Department-assigned duties. All organizations will be required to confirm that all employees who encumber positions not exempted from EO 14251's coverage and who were previously using TFUT have been returned full-time to Department-assigned duties.

D. **Use of Government Property or Other Government Resources:** The Department will only authorize the use of government property and other government resources for union business for the unions that represent Exempted Employees and the Exempted Unions. All Department employees and non-employee union representatives are prohibited from using government property or other government resources to perform union business. Other government resources include, but are not limited to, government-owned or leased transportation, office and meeting space, reserved parking space(s), IT related resources and software, equipment, and inter-office mail and metered mail accounts. Steps to non-authorized return government property and other government resources shall begin immediately and must be returned or vacated no later than August 12, 2025. Leadership will ensure availability of necessary staff to facilitate unions' efforts.

Former union representative employees who encumber positions not exempted from EO 14251's coverage must be directed to coordinate with the Office of Information and Technology (OIT) for the return of all Government-furnished equipment (GFE) no later than August 12, 2025. Any union information contained on agency local area network (LANs) or other similar agency networks may, upon specific written request by the union representative, be saved and provided to a designated former union representative employee or a designated union representative covered by the Statute. Former union representatives should be directed to remove any personal belongings from union office spaces.

If a union official is also a VA employee, then OIT will analyze the current OIT issued GFE and resources assigned to that employee to determine whether it is commensurate with the OIT GFE IT issuance of an employee of the same grade and occupational series as the union official. OIT will determine if there is a need to tailor the OIT issuance of GFE and resources or recoup the OIT issued GFE and resources

E. **Human Resources and Other Related Matters Previously Covered in Terminated CBAs:** For employees who encumber positions not exempted from EO 14251's coverage, VA organizational components should follow procedures outlined in VA policy for human resources and other related matters such as merit promotion, tours of duty, details, reassignments, hours of work, overtime, telework, leave usage, performance or disciplinary related matters, official travel, etc.

6. **Questions:** Questions regarding this Bulletin or the attachment: *EO 14251 Frequently Asked Questions and Guidance* can be directed to the VACO Office of Labor-Management Relations at vacolmrfaqs@va.gov or the designated LMR Specialist, available at: LMR Specialist Assignments

7. **Attachment: EO 14251 Frequently Asked Questions and Guidance and Employee Communication**