



AFGE

NATIONAL VA COUNCIL



NVAC Frequently Asked Questions

Talking Points For Responding to Members

Q: Do we still have a union?

A: Yes! Our union is still here, and fighting harder than ever. The whole reason they are trying to get rid of our union is because we are so effective at fighting back against their efforts to protect our jobs. But we are still here, fighting and winning. In fact, you may remember we faced very similar attacks during the last Trump administration, and we won back everything we lost and more. If we stand together, we will come out stronger at the end of this, again.

Q: The Agency says we don't have a contract. Is that true?

A: We absolutely have a contract. The courts are still deciding on it, but not only did a trial court say we are likely to win our court case on the question, the administration told the court that we still had a contract in place. The agency can pretend we don't have a contract — the same way a bank robber pretends the money is theirs. They can take it, but it isn't what the law provides, and we're coming to take it back. We are fighting in court, on the Hill, and protesting in the streets. Stick with your union and expect to win.

Q: Is our union still representing us while we fight the illegal attacks on our contract?

A: Even while we fight the agency to follow the law on our contract, your union is still here to represent members in disciplinary actions in VA administrative hearings and the Merit Systems Protection Boards, Equal Employment Opportunity cases, workers' compensation claims, and more.

Q: How can we encourage members to maintain their membership?

A: The attack on our union is an attack on the VA itself. The union is the only thing standing between you and the privatization of your job. Your dues are directly contributing to litigating against the unlawful actions of this administration. AFGE and NVAC are consistently battling in the courts to right the wrongs that have been enacted illegally against hardworking federal employees like you. When the going gets tough, the tough unite.

Q: Are we challenging Executive Order 14251 in the courts?

A: Yes, AFGE is actively engaged in federal litigation challenging the legality of EO 14251. More information can be found at www.afge.org/lawsuitupdate. We are also assessing potential challenges arising from the termination of the MCBA. NVAC will continue to fight for VA employees' rights to collectively bargain and be represented by their union.



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Q: Should Locals concede that the MCBA has been terminated?

A: No, Locals should not concede this point. Our position remains that the MCBA and other negotiated agreements are enforceable. We recommend that Locals continue to file grievances and meet associated deadlines under the MCBA for matters that ordinarily fall within the scope of the MCBA.

Q: What immediate steps should my Local take?

A: (1) Secure all Union files and equipment. (2) Find alternative office space or set up a virtual office, if necessary, under protest. (3) Follow supervisory directives to return to VA duty stations under protest. (4) Switch Union-related communication to private email and phone systems. (5) Encourage all members to switch to AFGE E-Dues

Q: What impact does the Secretary's termination have on our bargaining unit?

A: Due to Secretary Collins' termination of the MCBA, VA now claims that AFGE's recognition as exclusive representative under the Federal Service Labor-Management Relations Statute ("FSLMRS") only applies to Exempted Employees occupying the positions of police officer (GS-0083), firefighter (GS-0081), and security guard (GS-0085). The Union does not concede this point. Notwithstanding the Union's objections, Exempted Employees remain fully covered by the FSLMRS, MCBA, and other applicable authorities. Please refer to your bargaining unit lists to determine whether your Local represents Exempted Employees. A template information request can be found in Section 1 of the EO Toolkit. Locals should continue to grieve violations of the MCBA, file unfair labor practice charges, and bargain over changes to conditions of employment for Exempted Employees. For non-exempted Employees, VA's position is that they are no longer in the bargaining unit and the MCBA does not apply. The Union does not concede this point.

Q: Why did my bargaining unit status (BUS) code change to 8888?

A: Following the termination of the MCBA, VA human resources officials unilaterally initiated personnel actions to change the BUS of AFGE bargaining unit employees from 1272 or 1276 (Bargaining Unit Eligible-AFGE) to 8888 (Ineligible for Union Representation). A BUS code of 8888 means that, according to VA (not AFGE), the employee is not eligible for union representation and is therefore not covered by the FSLMRS and our Master 10 Agreement. We strongly disagree with VA's actions. AFGE and NVAC are actively challenging the legality of EO 14251 in federal court.



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Q: What information or documentation should I send to AFGE/NVAC?

A: Please email any instructions, memoranda, or other communications regarding the termination of the MCBA that you receive from management to EOnotices@afge.org. AFGE representatives in VA Locals can continue to send questions or requests for guidance to the NVAC Legal Team at NVACattorney@afge.org.

Q: Can employees still exercise their Weingarten rights?

A: For employees whose BUS codes have changed to 8888, the VA will not recognize their requests for Union representation. Further, the VA will not recognize any other rights these employees had under Chapter 71 with respect to formal meetings or investigatory examinations. These employees should still make the request for representation, both orally and in writing. They should also be prepared to take thorough notes and memorialize the meeting in an email afterward, noting whether or not a representative was present. For Exempted Employees still in the bargaining unit (i.e., police officers, firefighters, and security guards), their Weingarten rights and rights to union representation under the MCBA and Chapter 71 are still enforceable. These employees should continue to request union representation and consider grieving or filing a ULP if the VA declines.

Q: What will happen to pending grievances and arbitrations?

A: AFGE has released guidance for how to proceed in the following areas: pending challenges to disciplinary and performance actions; new challenges to disciplinary and performance actions; and grievances and arbitrations. Please review that information on AFGE's webpage at www.afge.org/AFGEstrong for a more detailed explanation of how you may proceed. If your pending grievance concerns Exempted Employees, you should proceed pursuant to Articles 43 and 44 of the MCBA. All other applicable Articles of the MCBA should continue to be enforced, as well. If your pending grievance concerns non-exempted Employees, you should consider whether the matter may be transferred to an alternate forum (such as the VA grievance procedure, EEOC, or MSPB). For all other matters, consider preserving your rights by asking the arbitrator to hold the matter in abeyance while the litigation regarding EO 14251 is pending, especially before any cancellation fee may apply. If an arbitrator charges a cancellation fee due to the VA's refusal to participate in the hearing, you should argue that the VA is responsible for the entirety of the cancellation fee because the Union was willing, able, and prepared to proceed to arbitration. The hearing would not have been cancelled but for the VA's termination of the MCBA.

For more information, please email us at communication@afgenvac.org