

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of

DEPARTMENT OF VETERANS AFFAIRS  
VETERANS AFFAIRS MEDICAL CENTER  
MIAMI, FLORIDA

and

FLORIDA NURSES ASSOCIATION,  
UNITED AMERICAN NURSES, AFL-CIO

Case No. 08 FSIP 59

**DECISION AND ORDER**

The Florida Nurses Association, United American Nurses (UAN), AFL-CIO (Union or FNA), filed a request for assistance with the Federal Service Impasses Panel (Panel) to consider a negotiation impasse under the Federal Service Labor-Management Relations Statute (Statute), 5 U.S.C. § 7119, between it and the Department of Veterans Affairs (DVA), Veterans Affairs Medical Center (VAMC), Miami, Florida (Employer).

Following an investigation of the request for assistance, arising from bargaining over official time, the Panel determined that the dispute should be resolved through an informal conference with Panel Member Grace Flores-Hughes. The parties were advised that, if no settlement were reached during the informal conference, Member Flores-Hughes would notify the Panel of the status of the dispute. The notification would include, among other things, the final offers of the parties and her recommendations to the Panel for resolving the issues. After considering this information, the Panel would take whatever action it deemed appropriate, which could include the issuance of a binding decision. Pursuant to the Panel's procedural determination, the parties met with Member Flores-Hughes on July 10, 2008, at the Employer's facility in Miami, Florida; at the close of the meeting, however, the issue remained unresolved. Thereafter, the parties submitted their final offers and summary statements of position to the Panel which now has considered the entire record.

## BACKGROUND

The Employer operates a medical facility and clinics in Miami and surrounding areas which provide a full array of care for military veterans including primary, specialty, in-patient, medical-surgical, psychiatric and limited long-term care services. At the national level, the UAN represents approximately 6,000 employees at VA facilities throughout the United States; in the Miami area, the FNA represents approximately 400 professional nurses (registered nurses, nurse practitioners and nurse anesthetists), stationed at the Miami VAMC and clinics, who work day, evening and night shifts. The parties are covered by a master collective-bargaining agreement (MCBA) that was implemented in 2005 for a 3-year term; it has a 3-year automatic renewal provision. At the local level, the parties have a supplemental agreement that went into effect in 1992, and rolls over annually.

Currently, the local Union president is also a UAN national representative. As a UAN officer, under Article 48, "Official Time," Section 2.A.4, of the MCBA, the employee receives 25-percent (or 10 hours) official time each week for national contract administration. As the local Union president, she receives 40-percent (or 16 hours) official time per week.<sup>1/</sup> Accordingly, the local Union president's official time entitlement under the MCBA and current practice afford her a total of 26 hours of official time each week, that is, 65-percent of her time is spent performing national and local Union representational duties. Under the local practice, other Union representatives are afforded a "reasonable amount" of official time for Union representational matters.

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1/ This amount is greater than the minimum amount of official time authorized under the MCBA for local Union officials. In this regard, Article 48, Section 3, authorizes a minimum of 24 hours of official time per bi-weekly pay period. The local Union president alone, however, currently receives 16 hours of official time each week, or 32 hours per bi-weekly pay period for local Union representational matters. The MCBA permits the parties, under Article 48, Section 3.B, to bargain locally if there is a desire to increase the allotment of official time from the minimum authorized by the MCBA.

### ISSUE AT IMPASSE

The sole issue is whether the allotment of official time for local Union representatives should be changed from "reasonable" time to a guaranteed number of hours each week.

### POSITIONS OF THE PARTIES

#### 1. The Union's Position

Under the Union's proposal, local Union representatives would be permitted to use a minimum of 32 hours of scheduled official time each week to engage in Union representational activities. The Union contends that the current practice of providing the local Union president with 16 hours of official time each week and other Union representatives "reasonable time" is insufficient for the Union to meet its obligation to represent employees on all three shifts. Since the parties often disagree over what constitutes a reasonable amount of official time for certain Union representational activities, and Union representatives sometimes are not released by management from their patient care duties to perform such activities, it would be better to provide the Union with a specific amount of official time to be distributed among its representatives as needed. This approach would help the parties avoid disputes over both official time allotments as well as the scheduling of official time. The problem is not so much that Union representatives are being denied official time but, rather, that they cannot find other staff to cover for them when they need to be away from their patient care duties to perform Union representational work. If the local Union representatives had a fixed amount of 32 hours of official time each week, they could schedule their FNA time in advance, making it easier to find coverage for their patient care duties and better schedule their clinic time with patients. Furthermore, Union representatives would be able to staff the Union office during fixed hours and advertise those office hours to bargaining-unit employees. Thus, Union representatives would be more accessible to employees if employees were aware that their local representatives were available to assist them during set hours.

According to the Union, local Union representatives currently are using their own time, rather than official time, to perform representational work, mostly concerning disciplinary actions; representatives work on their own time during evenings because they are unable to be released on official time to deal with employee issues during duty hours. Finally, the size of

the bargaining unit, over 400 nurses, justifies an increase in official time because there is a considerable amount of representational work associated with a large bargaining unit. In this regard, comparability data show that the DVA provides official time, similar to the amount proposed by the Union, to another FNA/UAN local in Tampa, Florida; thus, the proposal would provide parity for the local Union in Miami.

## 2. The Employer's Position

The Employer proposes to increase the amount of official time local Union representatives would receive by 4 hours per week, for a new total of 20 hours of scheduled official time weekly, and require that the allotment be distributed among a minimum of three Union officials; in addition, no Union official would be permitted to receive more than 50 percent of the total number of hours, and scheduled official time for one Union official could not be transferred to another. The Employer maintains that its proposal is responsive to the Union's request for additional time because it authorizes a 25-percent increase each week in scheduled official time. The conditions for utilizing official time would provide the Union with the "structure" it claims it needs when distributing official time among its representatives. Furthermore, under its proposal, the Union would not be foreclosed from seeking reasonable amounts of additional official time. Only a relatively small increase of 4 hours of official time per week is appropriate given that the Union cannot demonstrate a single instance "when reasonable time under the Statute was denied to any Union representative," and because the parties have a "stable" relationship. Permitting an increase in scheduled official time for Union representatives may serve to enhance communication between management and Union officials if both sides know when Union representatives would be available to attend to representational matters. Ultimately, the proposal would prevent an employee from becoming a full-time Union representative because nurses are needed to serve veterans as well as bargaining-unit employees. Other than the conditions imposed by the proposal, the Union would have the right to manage its use of official time as it sees fit; the Employer would not monitor the Union's use of official time and defers to the Union's judgment on the best use of its time.

## CONCLUSIONS

Having fully evaluated the evidence and arguments presented on this issue we are not persuaded that either party's proposal should be adopted. On the one hand, the Union has failed to

demonstrate the need for an increase in official time for local Union representatives. Among other things, it has not documented its claims that local Union officials have been representing the bargaining unit on their own time or that they have been denied official time to perform representational duties. The Employer's proposal, however, would result in a reduction of 6 hours of official time each week for the local Union president because of the significant restrictions it places on the Union's use and distribution of official time. Such a reduction does not appear to be warranted, nor would it serve to advance "relationship building," as the Employer suggests. Accordingly, as neither side has supported the need for a change in the *status quo* in terms of official time, we shall order the parties to withdraw their proposals.

**ORDER**

Pursuant to the authority vested in it by the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7119, and because of the parties' failure to resolve their dispute during the course of proceedings instituted under the Panel's regulations, 5 C.F.R. § 2471.6(a)(2), the Federal Service Impasses Panel, under § 2471.11(a) of its regulations, hereby orders the parties to withdraw their proposals.

By direction of the Panel.

H. Joseph Schimansky  
Executive Director

August 19, 2008  
Washington, D.C.