

UNITED STATES OF AMERICA  
**FEDERAL LABOR RELATIONS AUTHORITY**  
Office of Administrative Law Judges  
WASHINGTON, D.C. 20424-0001

DEPARTMENT OF VETERANS AFFAIRS CARL VINSON MEDICAL CENTER DUBLIN, GEORGIA  Respondent	
and  AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1985  Charging Party	Case No. AT-CA-03-0392

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been submitted to the undersigned Administrative Law Judge pursuant to the Statute and the Rules and Regulations of the Authority, the undersigned herein serves his Decision, a copy of which is attached hereto, on all parties to the proceeding on this date and this case is hereby transferred to the Federal Labor Relations Authority pursuant to 5 C.F.R. § 2423.34(b).

PLEASE BE ADVISED that the filing of exceptions to the attached Decision is governed by 5 C.F.R. §§ 2423.40-2423.41, 2429.12, 2429.21-2429.22, 2429.24-2429.25, and 2429.27.

Any such exceptions must be filed on or before **OCTOBER 27, 2003**, and addressed to:

Federal Labor Relations Authority  
Office of Case Control  
1400 K Street, NW, 2nd Floor  
Washington, DC 20424-0001

RICHARD A. PEARSON  
Administrative Law Judge

Dated: September 26, 2003  
Washington, DC

UNITED STATES OF AMERICA  
**FEDERAL LABOR RELATIONS AUTHORITY**  
Office of Administrative Law Judges  
WASHINGTON, D.C. 20424-0001

MEMORANDUM

DATE: September 26, 2003

TO: The Federal Labor Relations Authority

FROM: RICHARD A. PEARSON  
Administrative Law Judge

SUBJECT: DEPARTMENT OF VETERANS AFFAIRS  
CARL VINSON MEDICAL CENTER  
DUBLIN, GEORGIA

Respondent

and  
CA-03-0392

Case No. AT-

AMERICAN FEDERATION OF GOVERNMENT  
EMPLOYEES, LOCAL 1985

Charging Party

Pursuant to section 2423.34(b) of the Rules and Regulations, 5 C.F.R. § 2423.34(b), I am hereby transferring the above case to the Authority. Enclosed are copies of my Decision, the service sheet, and the transmittal form sent to the parties. Also enclosed is a Motion for Summary Judgment and other supporting documents filed by the parties.

Enclosures

**FEDERAL LABOR RELATIONS AUTHORITY**Office of Administrative Law Judges  
WASHINGTON, D.C.

DEPARTMENT OF VETERANS AFFAIRS CARL VINSON MEDICAL CENTER DUBLIN, GEORGIA  Respondent	
and  AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1985  Charging Party	Case No. AT-CA-03-0392

Peter Hines

For the General Counsel

Before: RICHARD A. PEARSON  
Administrative Law Judge**DECISION ON MOTION FOR SUMMARY JUDGMENT**

On June 30, 2003, the Regional Director of the Atlanta Region of the Federal Labor Relations Authority (FLRA), issued a Complaint and Notice of Hearing alleging that the Department of Veterans Affairs, Carl Vinson Medical Center, Dublin, Georgia (the Respondent), violated section 7116(a) (1), (5) and (8) of the Federal Service Labor-Management Relations Statute (the Statute), by refusing to furnish American Federation of Government Employees, Local 1985 (the Union) with certain documents requested by the Union. The complaint was served on the Respondent by certified mail; it specified that Respondent's answer must be filed by July 28, 2003, and that a failure to file an answer shall constitute an admission of the allegations of the complaint. A hearing was scheduled for October 7, 2003.

The Respondent has not submitted anything in response to the complaint.

On August 22, 2003, Counsel for the General Counsel filed a Motion for Summary Judgment, asserting that by its failure to answer the complaint, the Respondent had admitted all of the allegations therein. Since no facts are in dispute, the General Counsel submits that the record

demonstrates that the Respondent violated section 7116(a) (1), (5) and (8) of the Statute.

The Respondent has filed no response to the Motion for Summary Judgment.

Section 2423.20(b) of the Authority's Rules and Regulations, 5 C.F.R. § 2423.20(b), provides, in pertinent part:

(b) *Answer.* Within 20 days after the date of service of the complaint . . . the Respondent shall file and serve . . . an answer with the Office of Administrative Law Judges. The answer shall admit, deny, or explain each allegation of the complaint. . . . Absent a showing of good cause to the contrary, failure to file an answer or respond to any allegation shall constitute an admission. . . .

Not only has the Respondent failed to answer the allegations of the complaint in any manner, but it has neither made any showing of good cause nor responded to the Motion for Summary Judgment. By its inaction, it has admitted the allegations of the complaint. Accordingly, there are no factual issues in dispute, and it is appropriate to resolve this case by summary judgment. Based on the existing record, I make the following findings of fact, conclusions of law, and recommendations.

#### **Findings of Fact**

The Respondent is an agency as defined by 5 U.S.C. § 7103(a)(3). The American Federation of Government Employees (AFGE) is the exclusive representative of a bargaining unit at the Department of Veterans Affairs, and the Union is an agent of AFGE for purposes of representing employees at the Respondent's Carl Vinson Medical Center in Dublin, Georgia.

On February 27, 2003, the Union submitted a written request to a representative of the Respondent for the 2003 leave schedule and the leave requests of the employees working in the Geriatrics and Extended Care Service Line (hereafter referred to as "the Information"). The Information is normally maintained by the Respondent in the regular course of business; is reasonably available; is necessary for full and proper discussion, understanding and negotiation of subjects within the scope of bargaining; does not constitute guidance, advice, counsel or training provided for management officials or supervisors, relating

to collective bargaining; and is not prohibited from disclosure by law.

Since on or about February 27, 2003, the Respondent has refused to furnish the Union with the employees' leave requests.

### **Discussion and Conclusions**

The Authority held in *Internal Revenue Service, Washington, D.C. and Internal Revenue Service, Kansas City Service Center, Kansas City, Missouri*, 50 FLRA 661, 669 (1995), that a union requesting information under section 7114(b)(4) of the Statute must establish a particularized need for the information in relation to the union's statutory representational responsibilities. Similarly, an agency must articulate any interests weighing against disclosure, at or near the time of the union's request, so that the parties can discuss their respective interests and seek an accommodation thereof in a timely manner. *Id.* at 670-71.

Here, by its failure to respond to the complaint, the Respondent has admitted that the Union's request for the Information satisfied the requirements of section 7114(b)(4), and that it refused to furnish the Union with the employees' leave requests. It has articulated no interest against disclosing the leave requests, nor has it asserted any other defense to its refusal to provide the leave requests. Therefore, it is clear that the Respondent has failed to comply with section 7114(b)(4) of the Statute and committed an unfair labor practice in violation of section 7116(a)(1), (5) and (8).

To remedy the Respondent's violation, it is appropriate that the Respondent be ordered to submit the Information and that it post a notice to employees concerning its conduct. Accordingly I recommend that the Authority grant the General Counsel's Motion for Summary Judgment and issue the following Order:

### **ORDER**

Pursuant to section 2423.41(c) of the Authority's Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute (the Statute), it is hereby ordered that the Department of Veterans Affairs, Carl Vinson Medical Center, Dublin, Georgia (the Agency), shall:

1. Cease and desist from:

(a) Failing and refusing to furnish American Federation of Government Employees, Local 1985 (the Union), the exclusive representative of certain of its employees, information to which it is entitled under the Statute, including the 2003 leave requests of the employees working in the Geriatrics and Extended Care Service Line.

(b) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of rights assured them by the Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute:

(a) Furnish the Union with the 2003 leave requests of the employees working in the Geriatrics and Extended Care Service Line, as requested by the Union on February 27, 2003.

(b) Post at its facilities at the Carl Vinson Medical Center, Dublin, Georgia, where employees represented by the Union are located, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the Medical Center Director and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(c) Pursuant to section 2423.41(e) of the Authority's Rules and Regulations, notify the Regional Director, Atlanta Regional Office, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

Issued, Washington, DC, September 26, 2003.

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—  
RICHARD A. PEARSON  
Administrative Law Judge

**NOTICE TO ALL EMPLOYEES**

**POSTED BY ORDER OF THE**

**FEDERAL LABOR RELATIONS AUTHORITY**

The Federal Labor Relations Authority has found that the Department of Veterans Affairs, Carl Vinson Medical Center, Dublin, Georgia (the Agency), violated the Federal Service Labor-Management Relations Statute, and has ordered us to post and abide by this Notice.

**WE HEREBY NOTIFY OUR EMPLOYEES THAT:**

WE WILL NOT fail or refuse to furnish American Federation of Government Employees, Local 1985 (the Union), the exclusive representative of certain of its employees, information to which it is entitled under the Statute, including the 2003 leave requests of the employees working in the Geriatrics and Extended Care Service Line.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of rights assured them by the Federal Service Labor-Management Relations Statute.

WE WILL furnish the Union with the 2003 leave requests of the employees working in the Geriatrics and Extended Care Service Line, as requested by the Union on February 27, 2003.

—

\_\_\_\_\_  
(Respondent)

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature) (Title)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director, Atlanta Regional Office, Federal Labor Relations Authority, whose address is: Marquis Two Tower, 285 Peachtree Center Avenue, Suite 701, Atlanta, GA 30303-1270, and whose telephone number is: 404-331-5212.

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the **DECISION** issued by RICHARD A. PEARSON, Administrative Law Judge, in Case No. AT-CA-03-0392, were sent to the following parties:

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**CERTIFIED MAIL & RETURN RECEIPT**

**CERTIFIED NOS:**

Peter Hines

7000 1670 0000 1175

**2645**

Counsel for the General Counsel  
Federal Labor Relations Authority  
Marquis Two Tower, Suite 701  
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Network 7 Labor Relations Manager  
VA Medical Center  
Network Business Office, Suite 250  
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Duluth, GA 30096

Stephen Lucas, Director

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**2676**

Carl Vinson VA Medical Center  
1826 Veterans Boulevard  
Dublin, GA 31012

**REGULAR MAIL:**

Bobby Harnage, President

AFGE, AFL-CIO

80 F Street, NW

Washington, DC 20001

Dated: September 26, 2003



Washington, DC