66 FLRA No. 175

UNITED STATES
DEPARTMENT OF VETERANS AFFAIRS
NORTHERN ARIZONA
VA HEALTH CARE SYSTEM
PRESCOTT, ARIZONA
(Respondent)

and

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES
LOCAL 2401
(Charging Party/Union)

DE-CA-11-0181

_____

DECISION AND ORDER

August 31, 2012

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Before the Authority: Carol Waller Pope, Chairman, and Ernest DuBester, Member

I. Statement of the Case

This unfair labor practice (ULP) case is before the Authority on exceptions to the attached decision of an Administrative Law Judge (the Judge) filed by the Respondent. The General Counsel (GC) and the Charging Party/Union filed oppositions to the Respondent's exceptions.[1]

The complaint alleges that the Respondent violated § 7116(a)(1) and (5) of the Federal Service Labor-Management Relations Statute (the Statute) by failing and refusing to recognize the Union's designated representatives and interfering with the Union's right to designate its representatives. The Judge found that the Respondent violated the Statute as alleged.

For the reasons that follow, we deny the Respondent's exceptions and adopt the Judge's findings, conclusions, and recommended order.

[1] The GC also filed exceptions. Because the GC subsequently withdrew its exceptions, we do not discuss them further.

II. Background and Judge's Decision

A. Background

The facts are set forth in detail in the Judge's decision and are only briefly summarized here. The American Federation of Government Employees (AFGE) and the Department of Veterans Affairs are parties to a series of collective-bargaining agreements, including a nationwide agreement (master agreement). *See* Judge's Decision at 3. The Union – AFGE Local 2401 – is the certified exclusive representative of a unit of the Respondent's employees. *Id.* at 2. In 1974, the Union and the Respondent became parties to a local supplemental agreement (local agreement) that was automatically renewed every three years. *Id.* at 3-4. Article VII of the local agreement provides negotiation procedures, and Section 2 of that article (Section 2) states, in pertinent part, that "[a]ll members of the negotiating committee will be employees of the [Respondent]." *Id.* at 4.

When the longstanding Union president (president) retired from her employment with the Respondent in 2000, she remained president and continued to represent employees by, for example, negotiating and entering into agreements with the Respondent on behalf of the Union. *Id.* at 4-6. In 2009, another employee of the Respondent retired, became a Union steward (steward), and proceeded to represent employees by filing and settling grievances. *See id.* at 6.

In 2011, the Respondent issued a memorandum informing the Union that pursuant to Section 2, the Respondent was suspending "any negotiation actions underway at this time in which no [Respondent] employees are representing the [Union]." *Id.* As a result, the Respondent, among other actions, cancelled a scheduled meeting of its labor-management relations forum, refused a demand to bargain by the president, and responded to a grievance filed by the steward by refusing to negotiate with non-employee Union representatives. *Id.* at 7.

The Union filed a charge, and the GC issued a complaint, alleging that the Respondent violated § 7116(a)(1) and (5) of the Statute by failing and refusing to recognize the Union's designated representatives and interfering with the Union's right to designate its representatives. *Id.* at 2.

B. Judge's Decision

The Judge found that "for a period of eleven years, the Respondent and the Union followed a practice of recognizing non-employee representatives, in direct conflict with the specific language of the

[l]ocal [agreement]." Judge's Decision at 12. The Judge also found that the Respondent "never questioned the status of [the president] and it never objected to the addition of a new non-employee Union representative [(the steward)]." *Id.* at 13. In addition, the Judge stated that the Authority has upheld arbitrators' determinations that parties' past practices modified parties' agreements. *Id.* (citing *U.S. Dep't of Justice, Fed. Bureau of Prisons, Fed. Corr. Complex, Tucson, Ariz.*, 66 FLRA 517 (2012) (*Prisons*); *U.S. Dep't of Def., Def. Logistics Agency*, 66 FLRA 49 (2011) (*Def. Logistics*); *AFGE, Local 1633*, 64 FLRA 732 (2010) (*Local 1633*)). And she found that the parties' behavior "resulted in a modification to the limiting language" of Section 2. *Id.* In so finding, she rejected the Respondent's argument that *Professional Airways Systems Specialists, District No. 1, MEBA/NMU (AFL-CIO)*, 48 FLRA 764, 767 (1993) (*PASS*), established that "unambiguous contract language cannot be rejected due to past practice." Judge's Decision at 13. Specifically, she noted that the arbitrator in *PASS* had found no past practice. *Id.*

Based on the foregoing, the Judge found that the Respondent's "reversal" of the established past practice and its "refusal to deal with the designated Union representatives because they were no longer employees" violated § 7116(a)(1) and (5) of the Statute as alleged. *Id.* Because of these findings, she found it "not . . . necessary" to address an argument raised by the GC that the master agreement superseded Section 2. *Id.* at 13 n.2.

As remedies, the Judge recommended that the Authority issue a cease and desist order, require the Respondent to recognize the Union's designated representatives, and require the Respondent to post a notice of the ULP finding. *Id.* at 14.

III. Positions of the Parties

A. Respondent's Exceptions

The Respondent asserts that it did not commit a ULP because the Judge erred by "allowing a past practice to supersede the plain language and stated purpose of the [local agreement.]" Respondent's Exceptions at 1. Specifically, the Respondent acknowledges that "the past practice was in use for over a decade," but argues that "the plain language of the agreement can only be overturned by past practice when the language is ambiguous," and that Section 2 unambiguously requires that Union representatives be current employees. *Id.* at 4 (citing *PASS*, 48 FLRA at 767). Although the Respondent acknowledges that *Local 1633* "seems to indicate [that] the actions of the parties can usurp the language of the agreement," the Respondent states that *Local 1633* is "unclear as to whether the language in the agreement was sufficiently clear to prevent such usurpation." *Id.*

Further, the Respondent argues that the Judge's consideration of the past practice was improper because Article I, Section 2d. of the local agreement (Article I) provides that one of the purposes of the local agreement was to "[e]nsure *employee* participation in the formulation of . . . personnel policies and procedures." *Id.* at 3 (Respondent's emphasis) (quoting local agreement) (internal quotation marks omitted). According to the Respondent, this wording clarifies the parties' intention to involve only current employees in negotiations, thereby making the Judge's reliance on past practice to interpret Section 2 unnecessary. *See id.* at 3-4. In addition, the Respondent argues that the Judge's decision "fails to draw its essence from the collective[-]bargaining agreement." *Id.* at 1.

B. GC's Opposition

The GC asserts that the Judge properly found that the parties' "undisputed eleven-year past practice – by which the Respondent recognized and negotiated with non-employee Union representatives – was sufficient to modify the [local] [a]greement." GC's Opp'n at 5-6. In this regard, the GC argues that arbitrators and judges may find that a past practice has modified the terms of a collective-bargaining agreement, "even where [the] past practice is at odds with corresponding terms in the agreement." *Id.* at 6-7 (citing *Def. Logistics*, 66 FLRA at 51). Further, the GC argues that Article I's reference to employee participation "is not probative evidence [of] the parties' intent regarding the recognition of [U]nion representatives through which such employee participation will be achieved." *Id.* at 10 (emphasis omitted). Alternatively, the GC reasserts its argument that the master agreement superseded the "limiting language" of Section 2. *Id.* at 10-11 (quoting Judge's Decision at 13). Finally, the GC states that the Respondent's reference to the "essence" standard for the review of arbitration awards is "misplaced." *Id.* at 7 n.2.

C. Union's Opposition

The Union incorporates by reference the arguments that the GC made to the Judge. Union's Opp'n at 2-3. Alternatively, the Union argues that Section 2 is "ambiguous" and that, as a result, the Judge appropriately considered the parties' "long-established past practice of . . . recognizing retired employees as [U]nion negotiators" as a demonstration that the parties interpret the word "employee" in Section 2 to include "former employees." *Id.* at 3.

IV. Analysis and Conclusions

Under § 7114 of the Statute, a union has a right to designate its own representative. *See* 5 U.S.C. § 7114; *Dep't of Veterans Affairs, Ralph H. Johnson Med. Ctr., Charleston, S.C.*, 57 FLRA 495, 498 (2001) (*Veterans*). An agency's failure to recognize a union's duly authorized representative violates § 7116(a)(1) and (5) of the Statute. *Veterans*, 57 FLRA at 498.

Further, in ULP cases that turn on the meaning of a collective-bargaining agreement, the Authority has held that, where a judge's interpretation of the agreement is challenged, it will determine whether the judge's interpretation is supported by the record and by the standards and principles applied by arbitrators and the federal courts. *IRS, Wash., D.C.*, 47 FLRA 1091, 1110 (1993) (*IRS*). Therefore, the issue to be resolved in this case is whether the Judge's interpretation of the local agreement – including her finding that the parties' past practice modified the "limiting language" of Section 2, Judge's Decision at 13 – is supported by the standards and principles of interpreting collective-bargaining agreements applied by arbitrators and the federal courts.

Under these standards, the Authority has held that arbitrators may appropriately determine whether a past practice has modified the terms of a collective-bargaining agreement. *Prisons*, 66 FLRA at 521; *Def. Logistics*, 66 FLRA at 51; *Local 1633*, 64 FLRA at 734. Although the Authority recognized in *Local 1633* that "judicial and arbitral decisions . . . are mixed" on the issue of whether an arbitrator can "properly rely on the parties' past practice to modify the parties' unambiguous agreement," 64 FLRA at 734 n.3, the Authority denied exceptions to an arbitrator's finding that a past practice modified unambiguous contract wording in that case, *id.* at 734. In the award at issue in that decision, the arbitrator found that the parties' eight-year practice whereby the agency did not pay hospital chaplains for on-call duty amounted to an "understanding/ agreement" to modify contradictory collective-bargaining-agreement provisions requiring compensation for on-call duty for all employees. *Id.* at 732-34.

Similarly, here, the Judge found that, "for a period of eleven years, the Respondent and the Union followed a practice of recognizing non-employee representatives, in direct conflict with the specific language" of Section 2. Judge's Decision at 12. The Respondent does not except to the finding that the past practice existed, but challenges the Judge's finding that the practice "resulted in a modification to the limiting language" of Section 2. *See id.* at 13. However, there is "nothing improper about the [Judge]'s determination to interpret the [agreement] as the parties modified it" through their practice, rather than relying solely on the contractual wording. *Local 1633*, 64 FLRA at 734. And the Respondent's attempt to distinguish *Local 1633* on the basis that the contract provisions at issue in that case were more ambiguous than Section 2 is misplaced. For example, one of the relevant provisions in *Local 1633* unambiguously prohibited the agency from requiring employees to wear pagers unless they were in pay status, *see id.* at 733 n.1, and it was undisputed before the Authority that the agency required chaplains to wear pagers when they were not in a pay status, *see id.* at 733. But the arbitrator found that the parties' practice modified the agreement and established an agreement that chaplains would not be paid for that on-call duty. *Id.* at 732. Thus, the Respondent does not demonstrate that the holding in *Local 1633* does not apply here.

In addition, as the Judge noted in her decision, Judge's Decision at 13, the Respondent's citation of *PASS* is unavailing because in that decision, unlike here, the arbitrator found no past practice, 48 FLRA at 765, 767. Moreover, that "judicial and arbitral decisions" may be "*mixed*" on the issue of whether a past practice may modify unambiguous contract language, *Local 1633*, 64 FLRA at 734 n.3 (emphasis added), does not establish that the Judge *could not* properly interpret the parties' undisputed, eleven-year past practice as demonstrating the parties' intent to modify Section 2. Similarly, the Respondent's reliance on Article I's reference to "*employee* participation" as evidence of the parties' intent regarding Section 2, Respondent's Exceptions at 3 (Respondent's emphasis) (quoting local agreement) (internal quotation marks omitted), does not demonstrate that the Judge erred in finding that the parties' eleven-year practice was a better indicator of the parties' intent concerning that provision. *See Def. Logistics*, 66 FLRA at 51 (quoting Elkouri & Elkouri, *How Arbitration Works*, 630 (Alan Miles Ruben, ed., BNA Books 6th ed. 2003) ("[a]n arbitrator's award that appears contrary to the express terms of the agreement may nevertheless be valid if it is premised upon reliable evidence of the parties' intent")).

Accordingly, the Judge's interpretation of the local agreement, as modified by the parties' undisputed past practice, is supported by the standards and principles of interpreting collective-bargaining agreements applied by arbitrators and the federal courts. As a result, we deny the exception and find that the Respondent violated § 7116(a)(1) and (5) of the Statute when it failed to

recognize and refused to negotiate with the Union's designated representatives.[2]

V. Order

Pursuant to § 2423.41(c) of the Authority's Regulations and § 7118 of the Statute, the United States Department of Veterans Affairs, Northern Arizona Veterans Affairs Health Care System (NAVAHCS), Prescott, Arizona, shall:

1. Cease and desist from:

(a) Failing and refusing to recognize the designated representatives of the American Federation of Government Employees, Local 2401 (Local 2401) for the purposes of bargaining, participating on joint labor-management committees, and grievance representation, regardless of their NAVAHCS employment status.

(b) Interfering with Local 2401's right to designate its own representatives for the purposes of bargaining, participating on joint labor-management committees, and grievance representation.

(c) In any like or related manner, interfering with, restraining, or coercing bargaining unit employees in the exercise of their rights assured by the Statute.

2. Take the following affirmative actions in order to effectuate the purposes and policies of the Statute:

(a) Resume recognizing designated representatives of Local 2401 regardless of their employment status, and resume all bargaining, participating on joint labor-management committees, and grievance representation by retired annuitants currently officers in Local 2401, and order all supervisors and management officials to resume such recognition and resume dealing with the designated representatives of Local 2401.

(b) Post at its facilities where bargaining-unit employees represented by Local 2401 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 Director of the NAVAHCS, Prescott, Arizona, and shall be posed and maintained for sixty consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. The Notice shall also be disseminated to employees by electronic means. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(c) Pursuant to § 2423.41(e) of the Authority's Regulations, notify the Regional Director of the Denver Region, Federal Labor Relations Authority, in writing, within thirty days from the date of this Order, as to what steps have been taken to comply herewith.

[2] In addition, we note the Respondent's claim that the Judge's decision "fails to draw its essence" from the local agreement. Respondent's Exceptions at 1. But the Authority applies the "essence" standard to review *arbitration awards*. *See, e.g.*, *U.S. Dep't of Labor (OSHA)*, 34 FLRA 573, 575 (1990). Accordingly, that standard is inapposite, and we reject the Respondent's claim.

NOTICE TO ALL EMPLOYEES
POSTED BY ORDER OF THE
FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority has found that the United States Department of Veterans Affairs, Northern Arizona Veterans Affairs Health Care System, Prescott, Arizona (NAVAHCS), violated the Federal Service Labor-Management Relations Statute (the Statute) and has ordered us to post and abide by this Notice.

WE HEREBY NOTIFY EMPLOYEES THAT:

WE WILL NOT fail and refuse to recognize the designated representatives of the American Federation of Government Employees, Local 2401 (Local 2401), regardless of their NAVAHCS employment status.

WE WILL NOT interfere with Local 2401's right to designate its representatives, regardless of their NAVAHCS employment status.

WE WILL NOT fail and refuse to meet with the Union's designated representatives on grievances on the basis of their non-NAVAHCS employment status.

WE WILL NOT, in any like or related manner, interfere with, restrain, or coerce bargaining-unit employees in the exercise of their rights assured by the Statute.

WE WILL, at the request of the Union, resume all negotiations, committee participation, and processing of grievances suspended due to the non-NAVAHCS employment status of Local 2401's designated representatives.

_____
(Agency/Activity)

Dated:_____By: _____
(Signature) (Office Manager)

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, Denver Regional Office, Federal Labor Relations Authority, and whose address is: 1391 Speer Boulevard, Suite 300, Denver, CO 80204, and whose telephone number is: (303) 844-5224.

Office of Administrative Law Judges

UNITED STATES
DEPARTMENT OF VETERANS AFFAIRS
NORTHERN ARIZONA
VA HEALTH CARE SYSTEM
PRESCOTT, ARIZONA
(Respondent)

and

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES
LOCAL 2401
(Charging Party/Union)

DE-CA-11-0181

Hazel E. Hanley, Esq.
For the General Counsel

Alfred Bron Steinmetz, Esq.
For the Respondent

Susan F. Cox
For the Charging Party

Before: SUSAN E. JELEN
Administrative Law Judge

DECISION

This case arose under the Federal Service Labor-Management Relations Statute, Chapter 71 of Title 5 of the United States Code, 5 U.S.C. § 7101, *et. seq.* (the Statute), and the revised Rules and Regulations of the Federal Labor Relations Authority (the Authority/FLRA), 5 C.F.R. Part 2423.

On February 22, 2011, the American Federation of Government Employees, Local 2401 (Charging Party/Union) filed an unfair labor practice charge against the Department of Veterans Affairs, Northern Arizona Veterans Affairs Health Care System, Prescott, Arizona (Respondent/Agency). An amended charge was filed on March 3, 2011. On March 10, 2011, the Regional Director of the Denver Region issued a Complaint and Notice of Hearing in which it alleged that the Respondent failed and refused to recognize designated representatives of the Union and interfered with the Union's right to designate its representatives in violation of section 7116(a)(1) and (5) of the Statute.

On or about April 4, 2011, the Respondent filed its Answer to the complaint, in which it admitted certain allegations, but denied the substantive allegations of the complaint.

The hearing in this case was originally scheduled for May 6, 2011, but was indefinitely postponed in response to a Joint Motion for Decision Based Upon Stipulation of Facts filed by the parties on June 10, 2011. In the stipulation, the parties agreed that the Charge, the Complaint and Notice of Hearing, Respondent's Answer, the Stipulation and its attached exhibits, constitute the entire record in the case and no oral testimony is necessary or desired by any party as no material issue of fact exists. The parties have waived their right to a hearing before the Administrative Law Judge, therefore this decision is based upon the stipulation of facts and its attached exhibits.

FINDINGS OF FACT

The parties agreed to the following stipulation of facts:

1. The Department of Veterans Affairs (DVA), Northern Arizona Veterans Affairs Health Care System, Prescott, Arizona (Respondent or NAVAHCS) is an agency under 5 U.S.C. § 7103(a)(3).

2. The American Federation of Government Employees (AFGE) is a labor organization under 5 U.S.C. § 7103(a)(4) and is the exclusive representative of a unit of employees appropriate for collective bargaining at the DVA.

3. The American Federation of Government Employees, Local 2401 (Union or local 2401) is an agent of AFGE for the purposes of representing employees at the Respondent, within the unit described in paragraph 2.

4. The original charge was filed by Local 2401 with the Denver Regional Director on February 22, 2011. (Exhibit 1 to Stipulation).

5. A copy of the original charge, described in paragraph 4, was served on the Respondent.

6. The first amended charge was filed by Local 2401 with the Denver Regional Director on March 3, 2011. (Exhibit 2 to Stipulation).

7. A copy of the first amended charge, described in paragraph 6, was served on the Respondent.

8. On March 10, 2011, the General Counsel of the Federal Labor Relations Authority (Authority), by the Regional Director of the

Denver Region, acting pursuant to section 7104(f) of the Statute, 5 U.S.C. § 7101, *et seq.*, and section 2423.12 of the Rules and Regulations of the Authority, issued a Complaint and Notice of Hearing, a copy of which was subsequently served on the parties. (Exhibit 3 to Stipulation).

9. On April 4, 2011, the Respondent served an Answer to the Complaint on the Union and the Regional Director of the Denver Region. (Exhibit 4 to Stipulation).

10. At all material times, these persons occupied the positions opposite their names:

Wendy J. Hepker
Interim Director of NAVAHCS

Martha H. Maslionik
Patient Business Office,
Service Line Manager

Jane M. Lewerke
Human Resources Officer

11. At all material times, the persons named in paragraph 10 were supervisors and/or management officials under 5 U.S.C. § 7103(a)(10) and (11) at the Respondent.

12. At all material times, the persons named in paragraph 10 were acting on behalf of the Respondent.

13. AFGE and DVA are and have been parties to a series of collective bargaining agreements covering employees in the bargaining unit described in paragraph 2.

14. March 15, 2011, was the effective date of the current "Master Agreement between the Department of Veterans Affairs and the American Federation of Government Employees." (Exhibit 5 to Stipulation).

15. March 21, 1997, was the effective date of the agreement in effect before the 2011 collective bargaining agreement described in paragraph 14, "Master Agreement between the Department of Veterans Affairs and the American Federation of Government Employees." (Exhibit 6 to Stipulation).

16. August 13, 1982, was the effective date of the agreement in effect before the 1997 collective bargaining agreement described in paragraph 15, "Master Agreement between the Veterans Administration and the American Federation of Government Employees." (Exhibit 7 to Stipulation).

17. On January 23, 1974, the Respondent and Local 2401 became parties to a Local Supplemental Agreement, "Negotiated Agreement: Veterans Administration Center, Prescott, Arizona and AFGE, Local 2401, AFL-CIO." (Exhibit 8 to Stipulation).

18. By its terms, the Local Supplemental Agreement, described in paragraph 17, was automatically renewed for succeeding periods of three (3) years, pursuant to Article IX of that agreement; i.e., it was renewed on January 23 of 1977, 1980, etc.

19. Article VI, Section 1 of the Local Agreement identifies the appropriate subjects for negotiation as "work environment, supervisor-employee relations, work shifts and tours of duty, grievance procedures, promotion procedures, safety, training, labor organization-management cooperation, the implementation of policies relative to rates of pay, and other matters consistent with merit system principles."

20. The last sentence of Article VII, Section 2 of the parties' 1974 Supplemental Agreement, described in paragraph 17 above and included as Exhibit 8 to the Stipulation, states, "All members of the negotiating committee will be employees of the VA Center Prescott, Arizona."

21. Under the March 21, 1997, Master Agreement, described in paragraph 15, the Respondent and Local 2401 became parties to a "Memorandum of Understanding" on August 31, 2000, that provided for "Collaborative Bargaining" and "Traditional Bargaining." (Exhibit 9 to Stipulation).

22. Since 1988, Mary Garrison, with the exception of a six-month break in 1996, has been President of Local 2401.

23. For various periods of time, including from about February 2008 to July 2009,

Mary Garrison was the sole Union official and Union representative of Local 2401.

24. In about January 2000, Mary Garrison retired from her employment at the Respondent; however, she remained in her office of President of Local 2401.

25. During the periods of her serving as President of Local 2401, Mary Garrison, among other duties, took representational actions with the Respondent in the following matters:
    a. November 14, 1977, Memo of Understanding concerning relocations of medical center staff, signed by Mary Garrison and Charlene Ehret, Chief Operations Officer on behalf of the Medical Center Director. (Exhibit 10 to Stipulation).
    b. May 1, 1998, Memo of Understanding concerning how employees/positions would be moved/reassigned, signed by Mary Garrison and Charlene Ehret, Chief Operations Officer. (Exhibit 11 to Stipulation).
    c. March 15, 1999, agreement concerning move of Voluntary Service Office/Public Affairs Office to the Theater, Building 15, signed by Mary Garrison and Frank J. Cimorelli, Manager, Voluntary Services/Public Affairs Officers. (Exhibit 12 to Stipulation).
    d. May 20, 1999, Memo of Understanding concerning the designation of official bulletin boards, signed by Mary Garrison and Charlene Ehret, Chief Operations Officer. (Exhibit 13 to Stipulation).
    e. January 24, 2000, Request to Bargain over Parking Lot A signed by Mary Garrison. (Exhibit 14 to Stipulation).
    f. September 6, 2001, Memo of Understanding regarding HR LINKS access signed by Mary Garrison and Jennifer Geiss, Human Resources Officer. (Exhibit 15 to Stipulation).
    g. May 29, 2003, Memo of Understanding on 12-hour TODs for LPNs signed by Mary Garrison and Carol Hansen, Domiciliary Manager. (Exhibit 16 to Stipulation).
    h. February 10, 2004, Memo of Understanding on Resource Service Expansion signed by Mary Garrison and Terry S. Atienza, Associate Director. (Exhibit 17 to Stipulation).
    i. August 23, 2005, Memo of Agreement on Building 28 Changes signed by Mary Garrison and Judy McKee, Associate Director. (Exhibit 18 to Stipulation).
    j. March 7, 2006, Memo of Agreement on tours and shifts in the Laboratory signed by Mary Garrison and Sherry Donnell, Laboratory Supervisor. (Exhibit 19 to Stipulation).
    k. August 9, 2007, e-mail string from Mary Garrison to Randall S. Braley, Facility Manager, concerning bathrooms located near emergency room door. (Exhibit 20 to Stipulation).
    l. August 16, 2007 Demand to Bargain from Mary Garrison to S. Kjelland, Nurse Manager, Primary Care, concerning Employee Bathroom B 1b109. (Exhibit 21 to Stipulation).
    m. September 24, 2007, Memo of Agreement on glucometers and blood pressure cuffs signed by Mary Garrison and Marianne Locke, Nurse Executive. (Exhibit 22 to Stipulation).
    n. August 13, 2009, Memo of Agreement on breakroom in domiciliary signed by Mary Garrison and Cynthia White, Domiciliary Manager. (Exhibit 23 to Stipulation).
    o. January 7, 2010, Memo of Agreement on Article 23 Official Records signed by Mary Garrison and Wendy Hepker, Associate

Director. (Exhibit 24 to Stipulation).

p. December 16, 2010, Grievance No. 10-10 against Marianne Locke, Associate Director, Patient Care Services, alleging a violation of [the] 1997 Master Agreement, Article 3, on straight hours of duty and straight tours of duty. (Exhibit 25, to Stipulation).

q. On January 19, 2011, Mary Garrison received a third step grievance response from Wendy J. Hepker, Interim Center Director, on Grievance No. 10-10, requiring Marianne Locke, Associate Director, Patient Care Services, and Human Resources personnel to negotiate over tours of duty by February 11, 2011. (Exhibit 26 to Stipulation).

r. On January 20, 2011, Mary Garrison demanded to bargain with Facilities Services Line Manager, Worcester Bong, over Bio-Med Technicians' access to biomedical resource materials. (Exhibit 27 to Stipulation).

s. On January 26, 2011, Mary Garrison received an offer from the Facilities Service Line Manager offering to use room 509 in Building 107 as an interim place to store biomedical manuals for Bio-Med Technicians. (Exhibit 28 to Stipulation).

26. Susan F. Cox was employed at the NAVAHCS from 1973 to 1977 and again from 1985 to 2008 in Human Resources, and her last position was that of Equal Employment Opportunity/Alternative Dispute Manager.

27. In 2009, Susan Cox, after her retirement, joined AFGE, Local 2401, and has served the Union since that time as Steward-At-Large.

28. During the period of her serving as Steward-At-Large for Local 2401, Susan F. Cox, among other representational duties, took representational actions with the Respondent in the following matters:

a. January 5, 2010, Memo of Agreement on Grievance No. 09-15 (Rotation Schedule within Environmental Management Service) with Steven Peterson, Environmental Care Specialist. (Exhibit 29 to Stipulation).

b. January 25, 2011, filed a grievance, Grievance No. 11-02, with Martha H. Mashlonik, Patient Business Office Service Line Manager, on behalf of bargaining unit employee Catherine J. Kilmer, alleging Ms. Kilmer was not compensated for duties performed at the GS-301-11 level. (Exhibit 30 to Stipulation).

29. On February 7, 2011, Wendy J. Hepker, Interim Center Director, issued a memorandum to Mary Garrison, President of Local 2401, cc'd to NAVAHCS Management and Supervisory Staff, informing the Union that under Article VII, Section 2 of the parties' 1974 Supplemental Agreement, described in paragraph 17 above and included as Exhibit 8 to the Stipulation, she was directing management officials and Human Resources to suspend any negotiation actions underway at this time in which no NAVAHCS employees are representing the Local." (Exhibit 31 to Stipulation).

30. During the periods they served as President and Steward-At-Large, respectively, until February 7, 2011, Respondent recognized Mary Garrison and Susan Cox as representatives and negotiators of and for Local 2401.

31. On February 7, 2011, Wendy J. Hepker, Interim Director, issued a memorandum to Mary Garrison, President of Local 2401, cc'd to NAVAHCS Management and Supervisory Staff, regarding the implementation of Executive Order 13522 pre-decisional involvement, to inform the

Union that she was cancelling the Labor-Relations/Quality Development Council's February 2011 meeting, pending notification from Local 2401 of its new designees. (Exhibit 32 to Stipulation).

32. To date, the Union has not notified Respondent of its new designees, pursuant to Article VII, Section 3 of the parties' 1974 Supplemental Agreement, described in paragraph 17 above and included as Exhibit 8 to the Stipulation.

33. To date, there has been no meeting of the Labor-Relations/Quality Development Council (aka Labor-Management Relations Forum) for meeting the goals of Executive Order 13522.

34. On February 16, 2011, Martha H. Mashlonik, Patient Business Office Service Line Manager, responded to Grievance No. 11-02, described in paragraph 28 b and Exhibit 30 to the Stipulation, by sending employee Catherine J. Kilmer's Union representative, Susan F. Cox, an e-mail, stating that "negotiations are suspended until further notice with non-VA employee Union reps." (Exhibit 33 to Stipulation).

35. On February 21, 2011, Jane M. Lewerke, Human Resources Officer, replied to Grievance No. 10-10 and to Mary Garrison's January 20, 2011, demand to bargain, described in paragraphs 25 p and 25 q and Exhibits 25 and 26 to the Stipulation, stating she and Marianne Locke, Associate Director for Patient Care, would "not be able to meet with Mary [Garrison] or Sue [Cox] in this case as they do not meet the requirement of being employees." (Exhibit 34 to Stipulation).

36. For purposes of remedy, Notices to employees of NAVAHCS are customarily communicated via the Respondent's electronic mail system:

    a. On March 8, 2011, Bernadine M. Urban, Special Assistant to the Director, NAVAHCS, via electronic mail, sent to "All Employees" information on the Veterans Health Administration's Reorganization, including as attachments a letter from Robert A. Petzel, M.D. and an organizational chart dated March 2011. (Exhibit 35 to Stipulation).

    b. On April 15, 2011 Bernadine L. Urban, Special Assistant to the Director, NAVAHCS, via electronic mail, sent to "All Employees" notice of the LMS transition to Talent Management System (TMS). (Exhibit 36 to Stipulation).

    c. On April 25, 2011, Bernadine L. Urban, Special Assistant to the Director, NAVAHCS, via electronic mail, sent "All Employees" a link to the VA Talent Management System Upgrade and training opportunities prior to the VA TMS upgrade. (Exhibit 37 to Stipulation).

POSITION OF THE PARTIES

A. General Counsel

The General Counsel (GC) asserts that the Respondent violated section 7116(a)(1) and (5) of the Statute by failing and refusing to recognize representatives of Local 2401 and by interfering with the Union's right to designate its representatives. While acknowledging the specific language of the parties' 1974 Local Supplemental Agreement (LSA) that limited negotiations to "employees of the VA Center, Prescott, Arizona", the GC argues that the Respondent failed to meet the Authority's requirement that an agency must recognize the exclusive representative's designated representatives. *See Air Force Materiel Command, WRALC, Robins AFB, Ga.*, 54 FLRA 1529, 1534 (1998)(*Warner Robins AFB)*. It is undisputed that from Mary Garrison's retirement in 2000 until February 7, 2011, the Respondent recognized her authority as the local President and the principal bargaining agent for Local 2401. The parties' practice demonstrates that Local 2401 had designated its retired president and its retired steward-at-large to conduct the Union's business, including bargaining. Citing the *U.S. Dep't of the Air Force, 913th Air Wing, Willow Grove Air Reserve Station, Willow Grove, Pa.*, 57 FLRA 852, 855 (2002), the GC asserts that an agency acts at its peril when it refuses to recognize the representative designated by the Union for a particular purpose.

The GC further argues that each Master Agreement (MA) since the 1974 LSA contains a

supremacy provision, and that the MA trumps any and all local agreements in conflict with the policies of the MA. The local supplemental provisions were superseded if the local provision covered subjects in the MA that differed from the MA, whether superior or inferior.[1] The GC therefore argues that the parties' 1974 LSA was superseded by the successive MAs, due to the conflicting, restrictive language at issue in this matter.

Article 6 of the 1982 MA, Rights and Responsibilities addresses the subject of negotiation and contains no restriction on the employment status of the Union's designee. Paragraph B of Section 1, Article 6 provides: "Each party shall recognize and meet with the designated representative of the opposite party at mutually convenient times, dates, and places that are reasonable and convenient." (Stip. ¶ 16; Ex. 7, p. 6).

Further, the 1982 MA and the subsequent MAs distinguish union representatives from employees in the Articles covering respective Rights and Responsibilities. Article 6, Rights and Responsibilities, Section 1, General, Paragraph B, of the 1982 MA, provides "Agency management shall not impose any restraint, coercion, discrimination or interference against any union representative or employee in the exercise of their rights under the Act." (Stip. ¶ 16; Ex. 7, p. 6). The 1997 and 2011 MAs recognize that the VA will not restrain, coerce, discriminate against, or interfere with any Union representative or employee in the exercise of their rights. (Stip. ¶ 15; Ex. 6; Article 46, Section 2C, p. 176 and Stip. ¶ 14; Ex. 5, Article 46, Section 2C, p. 236).

The GC further points out that Article 44, Section 4 of the 1997 MA (in effect at the time of the alleged violation) states that "[p]roposed changes in personnel policies, practices, or working conditions affecting the interests of one local Union shall require notice to the President of that local." (Stip. ¶ 15, Ex. 6, Article 44 Mid-Term Bargaining, Section 4Bp. 171). There is no qualifier restricting this to "employed" President of that local.

Under the MAs of 1982, 1997, and 2011, there was no restrictive language circumscribing the local's ability to designate its own representatives. Likewise the superseding MAs all required the Respondent to recognize and deal with Local 2401 representatives, including retired Local President, Mary Garrison and retired Steward-At-Large, Susan Cox when these representatives were designated for particular purposes such as bargaining and processing grievances.

The GC finally argues that, if the subsequent Master Agreements are not found to supersede the 1974 Local Agreement, the principles of contract interpretation overcome the restriction in the 1974 LSA limiting negotiations to "employees of the VA Center, Prescott, Arizona." *See U.S. Dep't of Labor, OASAM., Dallas, Tex.*, 65 FLRA 677, 680 (2011) (*OASAM*)(citing *IRS, Wash. D.C.*, 47 FLRA 1110-11 (1993). From 2000 through February 7, 2011, the Respondent recognized Mary Garrison as a bargaining agent, a period of eleven (11) years. There is no question that the Respondent was aware that it was bargaining with Mary Garrison, a retired annuitant. The documents in paragraph 25 of the stipulation show the Respondent's year-by-year consistent recognition of Mary Garrison as its partner in bargaining matters. *Cf. NTEU, Chapter 207*, 60 FLRA 731, 735 (2005)(*NTEU*)(where the Authority set aside an arbitrator's award on exceptions filed by the union where one other occurrence was insufficient to establish that the non-selection of the grievant was based on past practice.).

The GC disagrees with the Respondent's position that the actions of eleven years in recognizing Mary Garrison cannot rewrite the explicit language of the local agreement regarding "employees of the VA Prescott". In particular the GC notes *AFGE, Local 1633*, 64 FLRA 732, 733 (2010)(*AFGE*), in which the arbitrator found that the labor agreement had been modified by the parties' past practice and the Authority determined that the arbitrator's interpretation was consistent with Authority precedent: "Under Authority precedent, an arbitrator may appropriately determine whether a past practice has modified the terms of a collective bargaining agreement. Such a determination is a matter of contract interpretation subject to the deferential essence standard of review." 64 FLRA at 734 (citing Frank Elkouri & Edna Asper Elkouri, *How Arbitration Works* 630 (6th ed. 2003)(An arbitrator's award that appears contrary to the express terms of the agreement may nevertheless be valid if it is premised upon reliable evidence of the parties intent). In *AFGE*, the Authority refused to overturn the arbitrator's award, where he determined that "both parties consistently followed [the] practice concerning compensation of chaplains for on-call duty for eight years . . . [and] that the Union acquiesced in the practice[.]" 64 FLRA at 732.

[1] The 1982 MA, Article 5, Section 1, Local Supplement Agreements, addresses "Continuation of Provisions in Local Agreements": Contract provisions contained in local contracts in existence prior to the Master Agreement will continue in effect insofar as they do not conflict with the Master Agreement. Whenever any subject is addressed in the Master Agreement, the terms of the Master Agreement shall prevail over the provisions of the local agreement concerning the same subject. For example, provisions that are on the same subject as those covered in the Master which (a) are different from the Master Agreement (whether superior or inferior) or; (b) would alter the terms of the Master Agreement or; (c) would interfere with or impair its implementation, are considered to be in conflict and superseded. (Stip. ¶ 16; Ex. 7, pp. 4-5).

B. Respondent

The Respondent asserts that it has not violated the Statute as alleged in the complaint. The Respondent admits that Mary Garrison retired in January 2000 and that, from that date until February 7, 2011, she acted as, and the Respondent inappropriately recognized her as a member of the negotiating committee, in violation of the clear and plain language of Article VII, Section 2 of the Local Agreement. The Respondent asserts that it has only declined to negotiate with representatives who are not NAVAHCS employees, as required by the Local Agreement. Further, it has not interfered with the Union's right to designate its representatives. Rather, the Respondent argues that the Union itself has limited its right to designate representatives for the negotiating committee, by failing to designate any such representatives who are employees of the *Prescott VA*.

The Respondent contends that the fact that the VA had not required Local 2401 to abide by the language of the Local Agreement does not create a past practice under the law. Citing to *Antilles Consol. Educ. Ass'n*, 22 FLRA 235, 236-37 (1986)(*Antilles*), the Respondent asserts that there is no dispute as to Local 2401's right to negotiate issues involving conditions of employment for VA employees. However, the selection of the individual for the negotiation committee is not considered a condition of employment. *See VAMC, Bath, N.Y.*, 4 FLRA 563, 573 (1980), in which there was no requirement for the Agency to negotiate the composition of a committee that was primarily focused on patient care, since composition of the committee had no effect on the actual working conditions of the employees. The Respondent argues that this case is similar since it concerns who may be a representative on a committee, which in effect has nothing to do with negotiating working conditions for the employees.

The Respondent further argues that even if its negotiations with non-NAVAHCS employees created a past practice, this does not override the requirements of the Local Agreement. *See Prof'l Airways Sys. Specialists, Dist. No. 1, MEBA/NMU (AFL-CIO)*, 48 FLRA 764, 767 (1993)(*PASS & FAA*)(the arbitrator's ruling that he would not allow the clear language of the agreement to be modified by past practice constitutes his interpretation of the agreement and is not in any way irrational, unfounded or implausible.). *See also U.S. Dep't of Homeland Sec., Customs & Border Prot., El Paso, Tex.*, 61 FLRA 684 (2006)(*Customs*)(informal practice did not modify the written terms of the agreement). *Airline Prof'l Ass'n of the Int'l Bhd. of Teamsters, Local Union No. 1224, AFL-CIO v. ABX Air, Inc.*, 274 F.3d 1023, 1030 (6th Cir. 2001)(where an arbitrator' decision fails to draw its essence from the terms of a collective bargaining agreement, the award is beyond the jurisdiction of the arbitrator.) *Totes Isotoner Corp. v. Int'l Chem. Workers Union Council/UFCW Local 664C*, 532 F.3d 405, 411 (6th Cir. 2008)(citing *United Steelworkers v. Enter. Wheel & Car Corp*., 363 U.S. 593, 597 (1960)(It is well-established that an arbitrator's award is legitimate and must be upheld where it is drawn from the collective bargaining agreement and the issues submitted for determination by the parties); *Int'l Bhd. of Teamsters, Local 513 v. Comair, Inc.*, 2010 WL 897255, 3 E.D. Ky. (2010)(quoting *United Paperworkers Int'l Union, AFL-CIO v. Misco, Inc.*, 484 U.S. 29, 38 (1987)(Nonetheless, the Supreme Court has made clear that the "arbitrator may not ignore the plain language of the contract[.]" The Arbitrator's award "must draw its essence from the contract and cannot simply reflect the arbitrator's own notions of industrial justice.").

The language of the Local Agreement is clear: all members of the negotiating committee must be NAVAHCS employees. The standard is, and should continue to be, that unambiguous contract language cannot be rejected due to past practice.

The Respondent rejects the GC argument that the specific language of Article VII, Section 2 of the local agreement has been superseded by subsequent Master Agreements. The Respondent asserts that the language of the Local Agreement does not interfere with or impair the implementation of the Master Agreement in any way. Even if the language regarding "procedures for negotiations" may differ from the language in the master agreement on bargaining, the intent is the same.

Further, the restraints of the Local Agreement were not imposed by the agency, but agreed to by the union. The Master Agreements do not even discuss a negotiating committee as discussed in the Local Agreement. But it would be absurd to argue that this created a conflict between the Local and Master Agreements. There is no conflict between a provision which states the Union is the sole representative of the employees and a provision which states that the Union representative who negotiates with management must be an employee. Both the MAs of 1997 and 2011, contain language that each party shall recognize and meet with the designated representatives of the other party.

The Respondent has no argument that AFGE is the exclusive representative of VA employees and Local 2401 is the agent of AFGE for the employees at NAVAHCS. However, due to the language of the Local Agreement, "duly authorized representatives" for the purposes of negotiations must be NAVAHCS employees. Local 2401 has designated, and is continuing to designate, negotiation committee representatives who

are unable to be duly authorized representatives under the language of the local agreement.

DISCUSSION AND ANALYSIS

The Supplemental Agreement between the Respondent and Local 2401 was originally signed in 1974 and continues in effect, having been rolled over by the agreement of the parties every three years. The Supplemental Agreement contains specific language in Article VII, Section 2. Procedures for Negotiation, relating to the make-up of the negotiating committee, specifically stating "All members of the negotiating committee will be employees of the VA Center, Prescott, Arizona." (Stip. ¶ 20). Mary Garrison has been President of Local 2401 since 1988 to the present time (with the exception of a six-month period in 1996). Garrison retired as an employee of the VA Center, Prescott, Arizona, in January 2000, but remained the President of Local 2401. The record evidence clearly establishes that from January 2000 until February 2011, Garrison continued to act on behalf of Local 2401 in her capacity as Union President, including bargaining with management representatives on various issues, representing employees in grievances, reaching agreement on issues and signing agreements on behalf of Local 2401. Further, a former employee of the VA Center, Prescott, Arizona, Susan Cox joined Local 2401 in 2009 and served as Steward-At-Large. In her capacity as a representative of Local 2401, Cox represented bargaining unit employees in grievances with the Respondent. The stipulated record clearly establishes and the Respondent agrees, that the Respondent dealt with both Garrison and Cox as representatives of Local 2401.

The GC asserts that in February 2011, the Respondent refused to deal with Garrison and Cox since they were not employees of the VA Center, Prescott, Arizona, and by this conduct violated section 7116(a)(1) and (5) of the Statute by refusing to recognize duly designated representatives of the Local and interfering with the Union's designation of representatives. The evidence establishes that for a period of eleven years, the Respondent and the Union followed a practice of recognizing non-employee representatives, in direct conflict with the specific language of the Local Supplement. The Stipulation sets forth multiple examples across this time period in which Garrison, on behalf of the Local, and various VA Prescott management officials, signed agreements on issues relating to bargaining unit employees. (see Stip. ¶ 25). The Respondent offers no explanation for this deviation from the specific language of the Local Supplement. It does note that Garrison had complained that the Respondent was not following various provisions of the Local Supplement, which apparently led the Respondent to an actual reading of the Local Supplement and the revelation of the specific language of Article VII, Section 2. At that point, the Respondent refused to continue dealing with either Garrison or Cox, due to their status as non-employees. The Respondent defends its actions by claiming that it was merely re-establishing the existing specific language of the Local Supplement by requiring that members of the negotiating committee would be employees of the VA Center, Prescott, Arizona.

Under Authority precedent, an arbitrator may appropriately determine whether a past practice has modified the terms of a collective bargaining agreement. Such a determination is a matter of contract interpretation subject to the deferential essence standard of review. *Customs*, 61 FLRAat 686; *NTEU*, 60 FLRA at 734. In *U.S. Dep't of Justice, Fed. Bureau of Prisons, Fed. Corr. Complex, Tucson, Ariz.*, 66 FLRA 517 (2012), the Authority upheld an arbitrator's determination that the parties had a binding past practice for over fifteen years of combining the dental and union dues allotments into a single monthly allotment that clarified the parties' agreement. *See also U.S. Dep't of Def., Def. Logistics Agency*, 66 FLRA 49 (2011)(An award, such as this, that upholds a past practice by finding that it modifies the parties' agreement, is not irrational, unfounded, implausible, or in manifest disregard of the modified agreement. *See AFGE*, 64 FLRA at 734).

The Respondent argues that the language of the Local Agreement is clear and that unambiguous contract language cannot be rejected due to past practice. With regard to Respondent's argument that *PASS and FAA* supports its argument, I note that the Authority specifically found in that case that the Arbitrator held that the Union failed to establish a binding past practice that would have required the Agency to have authorized rental cars for the unit employees. 48 FLRA at 765.

When a defense to an unfair labor practice complaint is governed by the interpretation and application of specific terms of a collective bargaining agreement, as the Respondent asserts with respect to Article VII, Section 2 of the Local Agreement, the Authority, including its administrative law judges, will determine the meaning of the provision, using the standards and principles of interpreting collective bargaining agreements applied by arbitrators and the federal courts. *See, e.g., United States Dep't of Veterans Affairs*, 57 FLRA 515, 519 (2001); *United States Dep't of Justice, INS, Wash., D.C.*, 52 FLRA 256, 261 (1996); *IRS, Wash., D.C.*, 47 FLRA 1091, 1111 (1993). In this matter, I find that the evidence shows that the parties engaged in behavior for a period of eleven years that resulted in a modification to the limiting language of the Local Supplement. During this period of time, the Respondent never questioned the status of Mary Garrison and it never objected to the addition of a new non-employee Union representative in the person of Susan Cox. The Respondent's reversal of this practice

and its refusal to deal with the designated Union representatives because they were no longer employees of the VA Center, Prescott, Arizona, was therefore a violation of the Statute as alleged in the complaint. The Authority has held that an exclusive representative has the right to designate its representatives when fulfilling its responsibilities under the Statute, and an agency violates section 7116(a)(1) and (5) of the Statute when it refuses to honor the union's designation of a representative. *See Warner Robins AFB*, 54 FLRA at 1534; *Food & Drug Admin., Newark Dist. Office, West Orange, N.J.*, 47 FLRA 535, 566 (1993).[2]

Having found that the Respondent has violated the Statute as alleged in the complaint, by refusing to recognize the Union's designated representatives, I recommend that the Authority adopt the following Order:

ORDER

Pursuant to section 2423.34 of the Authority's Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute (the Statute), the Department of Veterans Affairs, Northern Arizona Health Care System, Prescott, Arizona, shall:

1. Cease and desist from:

(a) Failing and refusing to recognize the designated representatives of the American Federation of Government Employees, Local 2401 (Local 2401) for the purposes of bargaining, participating on joint labor-management committees, and grievance representation, regardless of their NAVAHCS employment status.

(b) Interfering with Local 2401's right to designate its own representatives for the purposes of bargaining, participating on joint labor-management committees, and grievance representation.

(c) In any like or related manner, interfering with, restraining, or coercing bargaining unit employees in the exercise of their rights assured by the Statute.

2. Take the following affirmative actions in order to effectuate the purposes and policies of the Statute:

(a) Resume recognizing designated representatives of Local 2401 regardless of their employment status, and resume all bargaining, participating on joint labor-management committees, and grievance representation by retired annuitants currently officers in Local 2401, and order all supervisors and management officials to resume such recognition and resume dealing with the designated representatives of Local 2401.

(b) Post at its facilities where bargaining unit employees represented by Local 2401 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 Director of the Northern Arizona Veterans Affairs Health Care System, Prescott, Arizona, 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. The Notice shall also be disseminated to employees by electronic means. 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 Regulations, notify the Regional Director, Denver Region, 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, D.C., May 18, 2012.

_____

SUSAN E. JELEN
Administrative Law Judge

[2] Based on this decision, I do not find it necessary to address the General Counsel's remaining arguments and I make no specific determination regarding whether the Local Agreement is in conflict with the Master Agreements.

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, Northern Arizona Health Care System, Prescott, Arizona, violated the Federal Service Labor-Management Relations Statute (the Statute), and has ordered us to post and abide by this Notice.

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT fail and refuse to recognize the designated representatives of the American Federation of Government Employees, Local 2401 (Local 2401), regardless of their NAVAHCS employment status.

WE WILL NOT interfere with Local 2401's right to designate its representatives, regardless of their NAVAHCS employment status.

WE WILL NOT fail and refuse to meet with the Union's designated representatives on grievances on the basis of their non-NAVAHCS employment status.

WE WILL NOT, in any like or related manner, interfere with, restrain, or coerce bargaining unit employees in the exercise of their rights assured by the Statute.

WE WILL, at the request of the Union, resume all negotiations, committee participation, and processing of grievances suspended due to the non-NAVAHCS employment status of Local 2401's designated representatives.

_____
(Agency/Activity) (Agency/Activity)

Dated:_____ By: _____
(Signature) (Office Manager)

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, Denver Regional Office, Federal Labor Relations Authority, and whose address is: 1391 Speer Boulevard, Suite 300, Denver, CO 80204, and whose telephone number is: (303) 844-5224.