

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF ADMINISTRATIVE LAW JUDGES
WASHINGTON, D.C. 20424

.
VETERANS ADMINISTRATION .
MEDICAL CENTER, .
MILWAUKEE, WISCONSIN .
Respondent .
and .
VETERANS ADMINISTRATION STAFF .
NURSES COUNCIL, LOCAL 5032, .
WFNHP, AFT, AFL-CIO .
Charging Party .
.

Case No. 5-CA-70119

Mary L. Woehrer, Esq.
For the Respondent
Sandra J. LeBold, Esq.
For the General Counsel

Before: JOHN H. FENTON
Chief Administrative Law Judge

DECISION

Statement of the Case

This case is based on an unfair labor practice complaint issued by the Regional Director, Region V, Federal Labor Relations Authority, Chicago, Illinois against the Veterans Administration Medical Center, Milwaukee, Wisconsin (the Respondent) based on a charge filed by the Veterans Administration Staff Nurses Council, Local 5032, WFNHP, AFT, AFL-CIO (the Union). The complaint alleged, in substance, that Respondent violated sections 7116(a)(1), (5) and (8) of the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7101, et seq. (the Statute), by refusing to furnish the Union upon request with the names and home

addresses of all bargaining unit employees represented by the Union pursuant to section 7114(b)(4) of the Statute.*

Respondent's answer admitted the jurisdictional allegations as to the Respondent, the Union, and the charge and that, on or about January 22, 1987, Respondent denied the Union's request for the names and home addresses of employees in the bargaining unit. Respondent's answer also admitted that the names and home addresses are normally maintained by the Respondent in the regular course of business, and do not constitute guidance, advice, counsel or training provided for management officials or supervisors relating to collective bargaining. Respondent denied that the information requested is reasonably available and necessary for full and proper

*/ Section 7114(b)(4) provides:

"(b) the duty of an agency and an exclusive representative to negotiate in good faith . . . shall include the obligation--

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"(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data--

"(A) which is normally maintained by the agency in the regular course of business;

"(B) which is reasonably available and necessary for full and proper discussion understanding, and negotiation of subjects within the scope of collective bargaining;

"(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining[.]"

discussion, understanding, and negotiation of subjects within the scope of collective bargaining.

Positions of the Parties

In the light of Respondent's concession that the home addresses of unit employees are reasonably available to it, General Counsel contended that no material fact remained in dispute and moved for summary judgment based on Farmers Home Administration, Finance Office, St. Louis, Missouri, 23 FLRA No. 101.

Respondent asserts that the Privacy Act 5 U.S.C. 552a, prohibits the nonconsensual disclosure of employees' home addresses, that such information is not "data . . . within the scope of collective bargaining," and that it is not "necessary" in any event, in the light of the reasonable alternative means of communication, i.e. confidential first-class mail to employees at their places of employment.

Conclusions

I find Respondent has violated sections 7116(a)(1), (5) and (8) of the Statute, i.e. that the General Counsel is entitled to summary judgment as a matter of law under the teaching of the Authority's decision in Farmers Home Administration, supra. In a comprehensive opinion, it specifically held that the release of the names and home addresses of unit employees to their bargaining representative is not prohibited by the Privacy Act, that such data is necessary to collective bargaining, and that the existence of alternative means of communicating with such employees is irrelevant. Accordingly, I recommend that the Authority adopt the following Order, designed to effectuate the purposes and policies of the Statute.

ORDER

Pursuant to section 2423.29 of the Federal Labor Relations Authority's Rules and Regulations and section 7118 of the Statute, it is hereby ordered that Veterans Administration Medical Center, Milwaukee, Wisconsin, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request by the Veterans Administration Staff Nurses Council, Local 5032, WFNHP, AFT, AFL-CIO, the exclusive representative of a bargaining unit

of its employees, the names and home addresses of all employees in the bargaining unit it represents.

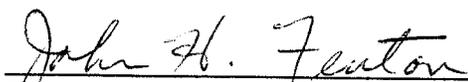
(b) In any like or related manner interfering with, restraining or coercing its employees in the exercise of their rights assured them by the Federal Service Labor-Management Relations Statute.

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

(a) Furnish Veterans Administration Staff Nurses Council, Local 5032, WFNHP, AFT, AFL-CIO, the exclusive representative of a bargaining unit of its employees, the names and home addresses of all employees in the bargaining unit it represents.

(b) Post at its facilities where bargaining unit employees 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 a senior official 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 insure that such Notices are not altered, defaced, or covered by any other material.

(c) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, Region V, Federal Labor Relations Authority, 175 W. Jackson Boulevard, Suite 1359-A, Chicago, IL 60604 in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.



JOHN H. FENTON
Chief Administrative Law Judge

Dated: April 20, 1988
Washington, D.C.

NOTICE TO ALL EMPLOYEES

PURSUANT TO

A DECISION AND ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

AND IN ORDER TO EFFECTUATE THE POLICIES OF

CHAPTER 71 OF TITLE 5 OF THE

UNITED STATES CODE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

We have been found by the Federal Labor Relations Authority to have committed an unfair labor practice. We have been ordered to post this Notice and abide by its provisions.

WE WILL NOT refuse to furnish, upon request by the Veterans Administration Staff Nurses Council, Local 5032, WFNHP, AFT, AFL-CIO, the exclusive representative of a bargaining unit of our employees, the names and home addresses of all employees in the bargaining unit.

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

WE WILL furnish Veterans Administration Staff Nurses Council, Local 5032, WFNHP, AFT, AFL-CIO, the exclusive representative of a bargaining unit of its employees, the names and home addresses of all employees in the bargaining unit.

(Activity)

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 of the Federal Labor Relations Authority, Region V, whose address is: 175 W. Jackson Boulevard, Suite 1359-A, Chicago, IL 60604 , and whose telephone number is: (312) 353-6306.