

<p><b>IN THE MATTER OF:</b></p> <p><b>ANTHONY MILLER, EBONY TAYLOR, TYRONE GALE, KIANDA MORGAN AND OTHER EMPLOYEES SIMILARLY SITUATED EMPLOYEES</b></p> <p><b>AND</b></p> <p><b>AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 3721 UNION</b></p> <p><b>v.</b></p> <p><b>DISTRICT OF COLUMBIA FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT AGENCY</b></p>	<p><b>DENNIS RUBIN DIRECTOR</b></p> <p><b>GRIEVANCE OFFICIAL</b></p>
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**STEP 3 GROUP GRIEVANCE**

Comes now, Employee Anthony Miller, *et. al.*, and AFGE Local 3721 (the “Union”), by and through their undersigned representative, to file this grievance.

This grievance is filed pursuant to and in accordance with Article 31, §§ B(2)(b) and B(3) (c) of the Collective Bargaining Agreement currently in effect between the District of Columbia Fire and Emergency Medical Services Department and American Federation of Government Employees, Local 3721.

The group, as defined by this grievance, are all employees in the unit represented by the Union, who have been ordered to take and/or have taken the National Registry of Emergency Medical Technicians written examination in order to recertify their certifications as Emergency Medical Technicians. This grievance shall be automatically amended to include any additional employees who are in the unit represented by the Union, and who take the test at a future date.

**STATEMENT OF FACTS**

Within the last two months, the Agency has implemented the requirement that all of its providers take the National Registry of Emergency Medical Technicians written examination at the appropriate level, at the culmination of their recertification period.

At no time prior to the implementation of the testing process did the Agency contact the Union and attempt to engage in good faith collective bargaining.

### **DCDOH ALLOWS FOR AN EMS AGENCY DISCRETIONARY CHOICE OF EXAMINATION FOR RE-CERTIFICATION**

The certifying Agency within the District of Columbia for Emergency Medical Technicians, Intermediates and Paramedics is the District of Columbia Department of Health(DCDOH).<sup>1</sup>

The DCDOH sets the requirements for initial certification and the requirements for recertification. For ALS providers, initial certification requires the employee to already have obtained a National Registry certification as an Intermediate or a Paramedic. Recertification of ALS providers mirrors the NREMT requirements of a required number of hours of continuing medical education and successful completion of CPR and ACLS certifications.

Pursuant to information received from the Department of Health<sup>2</sup> an EMS Agency, at its discretion, can mandate National Registry Testing for it's employed Emergency Medical Technicians, in lieu of the existing District of Columbia recertification exam.

Since the Agency has exercised its discretion in mandating National Registry testing, its decision represents a significant change in working conditions of the employees covered by this grievance, and therefore mandates collective bargaining over the issue.

### **AGENCY CANNOT UNILATERALLY CHANGE THE WORKING CONDITIONS OF EMPLOYEES**

The required testing unilaterally changes the working conditions of the employees in the unit represented by this Union.

D.C. Code, §1-617.08 states:

- (a) The respective personnel authorities (management) shall retain the sole right, in accordance with applicable laws and rules and regulations:
  - (1) To direct employees of the agencies;
  - (2) To hire, promote, transfer, assign, and retain employees in positions within the agency and to suspend, demote, discharge, or take other disciplinary action against employees for cause;
  - (3) To relieve employees of duties because of lack of work or other legitimate reasons;
  - (4) To maintain the efficiency of the District government operations entrusted to them;

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<sup>1</sup> See [http://doh.dc.gov/doh/cwp/view,a,3,q,573177,dohNav\\_GID,1802,dohNav,l33200l33213l,.asp](http://doh.dc.gov/doh/cwp/view,a,3,q,573177,dohNav_GID,1802,dohNav,l33200l33213l,.asp)

<sup>2</sup> Letter from Beverly Pritchett to Jasper Sterling, attached

(5) To determine:

(A) The mission of the agency, its budget, its organization, the number of employees, and to establish the tour of duty;

(B) The number, types, and grades of positions of employees assigned to an agency's organizational unit, work project, or tour of duty;

(C) The technology of performing the agency's work; and

(D) The agency's internal security practices; and

(6) To take whatever actions may be necessary to carry out the mission of the District government in emergency situations.

(a-1) An act, exercise, or agreement of the respective personnel authorities (management) shall not be interpreted in any manner as a waiver of the sole management rights contained in subsection (a) of this section.

(b) All matters shall be deemed negotiable except those that are proscribed by this subchapter. Negotiations concerning compensation are authorized to the extent provided in § 1-617.16.

Testing of the employees is not a management right as detailed above, and therefore is covered by D.C. Code §1-617.08(b) and is deemed negotiable.

Upon employee's hiring, as well as other EMS Providers represented by the Union, there was no existing requirement to either obtain or maintain National Registry certification. As such, the institution of such a requirement represents a change in the working conditions of the employees.

The Agency cannot change the conditions of employment of its employees without first negotiating such a change with the exclusive bargaining representative. The Agency has failed to negotiate an agreement with the Union to conduct testing of the employees it represents, and as such, the testing violates the Collective Bargaining Agreement.

## **RESOLUTION**

As resolution to this grievance, it is respectfully demanded that:

1. The Agency immediately cease and desist the requirement for National Registry testing of employees in the unit represented by this Local.
2. The Agency immediately commence negotiations in good faith over the issue of testing employees in the unit represented by this Local.

This grievance is submitted this 24<sup>th</sup> Day of June, 2008.

Respectfully,

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