

November 9, 2017

Via Email

MG Timothy Reisch
Adjutant General
South Dakota National Guard
2823 West Main St.
Rapid City, SD 57702-8170

Re: Response to Grievance – Failure to Implement Section 1084 (Sec. 1084) of FY17 NDAA

Dear Sir:

1. In regard to your October 6, 2017, response, we commend you, and are encouraged by your commitment to implement Sec. 1084 of the FY17 NDAA. However, and for the following reasons, the Union partially rejects one of your arguments. Specifically:

a. **LIUNA Local 1776 lacks standing to file a grievance.** On February 3, 2015, I sent a letter (Attachment 1) to NGB as well as your state’s Labor Representative on record, notifying your Agency that, effective January 1, 2015, LIUNA HQ had merged all National Guard Local Unions into one single entity, Local 1776. We also notified you that the exclusive recognition previously accorded to LIUNA Local 1050 would now be exercised by Local 1776. A Union has the authority to manage the administrative and representational functions accorded to their Locals as they see fit.

You are absolutely correct that your CBA requires concurrence of the LIUNA State Representative (SR) for the Union to invoke arbitration in SD. However, the CBA does not specifically require that the SR be the one who brings a grievance forward on behalf of the Union or employees. As such, and as I have done in each state that we represent, a grievance filed from my desk is the equivalent of the Union filing a grievance in your state, and it should have been recognized as so.

Article 5, Section 1(a), of the Party’s current CBA (2017) requires that the Agency recognize all Officers and Representatives designated by the Union, as follows (emphasis ours):

SECTION 1. RECOGNITION: Management recognizes that the Union, as the exclusive representative of all Employees in the bargaining unit, is entitled to act for and negotiate Collective Bargaining Agreements covering all Employees.

*a. **Management will recognize the officials designated by the Union, including stewards and alternates.***

In addition to the above, your Agency has recognized the undersigned as designated Union representative of bargaining unit employees in South Dakota since as early as January of 2011. Email records exchanged between the Agency and the undersigned since January of 2011 to confirm an ongoing and voluntary recognition of my authority to act on behalf of your employees. We feel confident that the record would clearly demonstrate the Agency recognizes LIUNA Local 1776, and the previous National Guard District Council, as a designated LIUNA representative for the South Dakota bargaining unit.

2. I do want to recognize your commitment that no employee shall be harmed by this delay in implementation, and the fact that, due to inaction on the part of the National Guard Bureau (NGB), your state has been unable to execute Sec. 1084. I also want to recognize the unique relationship your state has with our Union representatives. No other state has been as open and forthcoming with us on this particular matter, especially as it relates to sharing the list of positions identified for conversion. As such, the Union will recognize this as the Agency's good-faith attempt to reach a mutually agreeable solution to our complaint, and will consider the grievance to be on hold pending further information on Sec. 1084. Should there be a change, I'm confident your staff will do its best to work with our representatives to mitigate any potential harm to employees.

3. Point of contact for this matter is the undersigned via email at benbanchs@liuna-ngdc.org, or telephone at (985) 249-3707.

Respectfully,



Ben Banchs
Business Manager
LIUNA NGC Local 1776

cc:

James Bruns, South Dakota State Representative, LIUNA Local 1776
Josh Klinger, Attorney, Minahan, Muther, and Klinger, PC