



National Federation of Federal Employees

Affiliated with The International Association of Machinist & Aerospace Workers, AFL-CIO

~We Work for America Everyday~

Phone: (202) 216-4420

1225 New York Ave, NW, Suite 450, Washington, DC 20005

Fax: (202) 898-1861

VA EMPLOYEE REPRESENTATION RIGHTS – Q&A

(Based on VA Handbook 5021, Part IV, Chapter 3, Paragraph 4 and other federal protections)

Q1: Do I still have the right to a representative if VA says our CBA is gone?

A: Yes. Even without a collective bargaining agreement, **VA policy and federal law** give you the right to representation of your choice in certain situations — including administrative grievances, disciplinary actions and adverse actions, and some investigations.

Q2: Where does this right come from?

A:

- **VA Handbook 5021, Part IV, Chapter 3** – Administrative Grievances
- **5 U.S.C. § 4303(b)(2)(B) & 7513(b)(3)** – Adverse and performance-based actions
- **29 C.F.R. § 1614.605(b)** – EEO complaints
- **5 C.F.R. § 1201.31(b)** – MSPB appeals

These apply **whether** you are covered by a CBA or not.

Q3: What does VA Handbook 5021 say about my right to a representative?

A: From Part IV, Chapter 3: “An employee has the right to be accompanied, represented, and advised by a representative of choice at any stage of the procedure.”

Q4: Can VA refuse my chosen representative?

A: Yes, but only for specific reasons listed in **Paragraph 4:**

- Priority needs of the service
- Unreasonable cost to the Government
- Conflict of position
- Conflict of interest

Q5: If VA disallows my representative, what must they do?

A: Under **Par4 4:**

- The disallowance **must be in writing** within **5 days** of your designation.
- The notice must state the **specific reason** for disallowance.
- The notice must tell you how to **challenge the decision**.

Q6: How do I challenge a disallowance?

A:

1. You have **5 days** from receiving the notice to file a **written challenge** with the decision official.
2. In your challenge:
 - State why you disagree.
 - Say whether you want to **proceed with your grievance** or wait for the challenge decision.
3. The decision official must issue a **final decision within 10 days** of getting your challenge.

Fighting for VA Employees is Fighting for Veterans

WWW.NFFE.ORG

Q7: Can I pick a union steward or officer as my “representative of choice”?

A: Yes. Even if VA claims no exclusive recognition exists, you can still designate a union official to represent you personally under VA policy and federal law.

Q8: What should I say to assert my rights?

Sample phrase:

“I designate [Name] as my representative of choice under VA Handbook 5021 and applicable law. Please provide any denial in writing as required by Part IV, Chapter 3, Paragraph 4.”

Q9: Why should I always designate a representative in writing?

A: A written designation:

- Triggers VA’s duty to respond in writing.
- Starts the 5-day and 10-day timelines.
- Creates a record for any later grievance, MSPB, EEO, or court case.

Q10: Where can I get a designation form?

A: Contact your local NFFE steward or officer. We have a **Designation of Representative & Privacy Act Waiver** template ready to use. If you cannot reach a local NFFE official, please use the contact form at www.nffe.org

You can keep up to date on matters related to the VA Collective Bargaining Agreement and access materials at www.nffe.org/va

**NFFE-VA
Updates**



nffe.org/va

Fighting for VA Employees is Fighting for Veterans
WWW.NFFE.ORG