

**VERMONT STATE EMPLOYEES' ASSOCIATION, INC.**  
**GRIEVANCE**  
**STEP II**

To: Nicholas Deml, Commissioner  
Vermont Department of Corrections  
280 State Drive  
NOB 2 North  
Waterbury, VT 05671-2010

From: Vermont State Employees' Association, Inc.  
155 State Street,  
Montpelier, VT 05601

**NOTICE** is hereby given that the Vermont State Employees' Association ("VSEA"), on behalf of itself, and all impacted bargaining unit employees of the Vermont Department of Corrections (DOC), hereinafter referred to as "Grievants" does grieve the following violations: 1) the repeated failure or refusal of the DOC to provide reasonably necessary information requested by VSEA, 2) the repeated failure or refusal of the DOC to respond to communications from VSEA, and 3) creating a climate of coercion that interferes with the free exercise of employee rights and the rights of the exclusive bargaining representative.

**STATEMENT OF FACTS:**

1. At all times relevant to this grievance, VSEA was the exclusive bargaining representative for all impacted DOC employees in the Corrections Unit and Supervisory Unit.
2. The State of Vermont ("State"), Department of Corrections and the Vermont State Employees' Association reached a Side Letter Agreement dated July 19, 2022, specifying certain temporary schedule changes, recruitment and retention bonus and other monetary enhancements for DOC employees in the Corrections Bargaining Unit and Supervisory Bargaining Unit. Signing this Agreement on behalf of the State were DOC Commissioner Nicholas Deml and John Berard, Director of Labor Relations, Department of Human Resources (DHR).
3. The above referenced Side Letter Agreement includes, in part, that DOC may implement temporary, not established, schedules consisting of twelve-hour shifts at correctional facilities, under established provisions that apply to employees working these schedules.
4. The above referenced Side Letter Agreement also includes a provision that, "The State shall conduct a phased Market Factor Analysis of all classifications in DOC beginning with Security positions. Final results of which shall be shared with VSEA."
5. On October 18, 2022, Gary Hoadley, VSEA Director of Labor Relations, sent an email to DOC Commissioner Deml and Mr. Berard, stating the following, "In July 2022, the State of Vermont ("State"), the Department of Corrections ("DOC") and the Vermont State Employees' Association, Inc., ("VSEA") reached a mutual agreement on a side letter specifying certain temporary schedule changes, recruitment and retention bonuses, and other monetary enhancements for DOC employees

in the Corrections Bargaining Unit and Supervisory Bargaining Unit. According to the terms of that agreement, the State shall conduct a phased Market Factor Analysis of all classifications in DOC beginning with Security positions and the final results shall be shared with VSEA. VSEA, on behalf of the Correction Unit and Supervisory Unit bargaining teams, requests an update on the progress of the MFA analysis and the job titles currently under review.” More than eleven weeks after this request, VSEA did not receive any response to this matter from the Department of Corrections or the Department of Human Resources, whatsoever.

6. On January 6, 2023, Mr. Hoadley sent a letter by email, on behalf of VSEA, to DOC Commissioner Deml and Mr. Berard demanding that, “the Department of Corrections and the Department of Human Resources respond, in writing, no later than January 20, 2023, with the information sought by the union on the progress of the MFA analysis, the job titles currently under review and the projected completion date of all classifications.” Three weeks after the January 6<sup>th</sup> letter, VSEA did not receive any response to this matter from the Department of Corrections or the Department of Human Resources, whatsoever.

7. According to Article 1, “VSEA RECOGNITION”, of the Corrections Unit and Supervisory Unit collective bargaining agreements, the State of Vermont has committed to recognize the Vermont State Employees’ Association as the exclusive representative of Vermont State employees in the those units.

8. Article 6, Exchange of Information, of the respective Corrections Unit and Supervisory Unit collective bargaining agreements states in pertinent part,

“4. (a) The State will also provide such additional information as is reasonably necessary to serve the needs of the VSEA as exclusive bargaining agent and which is neither confidential nor privileged under law. Access to such additional information shall not be unreasonably denied. Failure to provide information as required under this Article may be grieved through the grievance procedure to the Vermont Labor Relations Board; provided, however, the VSEA agrees that it will not pursue under this Agreement or under 1 VSA, Sections 315 to 320, disclosure of a document which the State asserts in good faith is a privileged matter of labor relations policy as, for example, a strike contingency plan.”

9. The Vermont State Employees’ Labor Relations Act, section 904 “Subjects for bargaining” states in pertinent part, “(a) All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining except those matters that are prescribed or controlled by statute.”

10. The Vermont State Employees’ Labor Relations Act, section 903 “Employees’ rights and duties; prohibited acts” states in pertinent part, “(d) All employers, their officers, agents, and employees or representatives shall exert every reasonable effort to make and maintain agreements concerning matters allowable under section 904 of this title and to settle all disputes, whether arising out of application of those agreements or growing out of any dispute between the employer and the employee thereof.”

**Grievants, including their exclusive bargaining representative, contend the following:**

- a) The Department of Corrections sought an agreement with VSEA to implement 12-hour shifts and schedules to assist with the staffing crisis at correctional facilities. In good faith, the VSEA Corrections Unit and Supervisory Unit bargaining teams agreed to the terms and conditions of the July 19, 2022 Side Letter Agreement.
- b) While the DOC quickly implemented temporary 12-hour shifts in correctional facilities statewide, DOC and DHR have ignored the reasonable request by VSEA to know the progress of the Market Factor Adjustment (MFA) analysis.
- c) More than six months after the implementation of the side letter, bargaining unit employees and their union have a right to know if the DOC and DHR are conducting the MFA analysis of all DOC classifications, to which the State has committed.
- d) Commissioner Deml, the Department of Corrections and the Department of Human Resources have demonstrated a flagrant disregard for the Side Letter Agreement, the collective bargaining agreements, the State Employees Labor Relations Act, bargaining unit employees and their union.
- e) The repeated failure or refusal of Commissioner Deml, the Department of Corrections and the Department of Human Resources to communicate with VSEA and provide reasonably necessary information is inherently destructive to positive labor relations and creates a climate of coercion that interferes with the free exercise of employee rights and the rights of the exclusive bargaining representative.
- f) Commissioner Deml, the Department of Corrections and the Department of Human Resources have failed to exert every reasonable effort to maintain the collective bargaining agreements and the above referenced Side Letter Agreement.

**APPLICABLE CONTRACT SECTIONS, AGREEMENTS, RULES, POLICIES, AND LAW:**

Articles 1 and 6 of the Corrections Unit Collective Bargaining Agreement.

Articles 1 and 6 of the Supervisory Unit Collective Bargaining Agreement.

State Employees' Labor Relations Act ("SELRA").

DOC Temporary Shifts Side Letter Agreement dated July 19, 2022.

Any other relevant contract articles, provisions of Personnel Rules and Regulation, Vermont Statutes and other applicable law.


**REMEDIAL ACTION SOUGHT:**

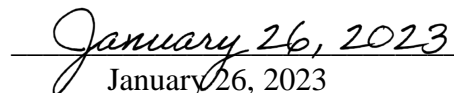
VSEA, on behalf of itself and all impacted bargaining unit employees of the Vermont Department of Corrections, requests that the following remedial action be granted:

1. That the Department of Corrections immediately respond, in writing, with the information sought by the VSEA on the progress of the MFA analysis, the job titles currently under review and the projected completion date of all classifications.

2. That Commissioner Deml and the Department of Corrections comply with requests for reasonable information necessary to serve the needs of the VSEA as the collective bargaining representative.
3. That Commission Deml and the Department of Corrections cease and desist ignoring VSEA communication, inquiries, and requests that require a response.
4. That Commission Deml and the Department of Corrections cease and desist from actions that create a climate of coercion that interferes with the free exercise of employee rights and the rights of the exclusive bargaining representative.
5. That Commissioner Deml and the Department of Corrections cease and desist from actions that are inherently destructive to positive labor relations.
6. That Grievants be made whole for any and all losses incurred as a result of the aforementioned violations.
7. That the DOC immediately acknowledge its recognition of the VSEA as the exclusive representative of Vermont State employees in the Corrections and Supervisory Units.
8. That notice of remedial action granted be provided to all Grievants and to VSEA in writing within the timeframes outlined in the contract.

VSEA does not request a Step II meeting and agrees to waive the informal discussion at Step II. Grievants and the VSEA request that, if the Department of Corrections declines to grant the remedial action sought, the DOC issue a decision in writing within five (5) workdays after receipt of this Step II grievance. The decision, in writing, should be received by VSEA no later than the close of business on February 2, 2023. If the decision is not received in a timely manner, VSEA shall advance the grievance to Step III.

  
\_\_\_\_\_  
Gary L. Hoadley  
VSEA Director of Labor Relations

  
\_\_\_\_\_  
January 26, 2023

cc: Jenny Samuelson, Secretary AHS  
VSEA President and Executive Director  
VSEA Field and Legal Staff  
VSEA Corrections Unit Chair and Bargaining Team  
VSEA Supervisory Unit Chair and Bargaining Team  
Grievants – All DOC employees in the Corrections Unit and Supervisory Unit