

CHAPTER 28

LABOR-MANAGEMENT RELATIONS

28-1. GENERAL.

Congress finds that labor organizations and collective bargaining in the civil service are in the public interest. The purpose of this chapter is to assist managers and supervisors in understanding the basic rights and obligations of management, Unions and employees under Title 5 United States Code, Chapter 71 - Labor Management Relations. It establishes procedures for implementing personnel policies and practices consistent with this law; Office of Personnel Management (OPM), Department of Defense (DOD), Army regulations; and Labor Management Agreements negotiated between the Union and management on behalf of bargaining unit employees represented at Fort Bragg.

28-2. DEFINITIONS.

a. Union - a labor organization that represents the interest of employees before agency management on conditions of employment.

b. Bargaining Unit - a specifically identified group of employees who are represented by a Union that has been certified as their exclusive representative by the Federal Labor Relations Authority (FLRA). It includes all employees not otherwise excluded, regardless of whether they pay dues to the Union. Excluded from bargaining units are supervisors, management officials, confidential employees, employees engaged in personnel work (except for those only performing clerical duties), investigative employees whose work directly affects the internal security of the agency, and professional employees under most circumstances. At Fort Bragg, the only professional employees in a bargaining unit are those assigned to Womack Army Medical Center (WAMC). Certain organizations are also excluded, depending on the nature of their operations. At Fort Bragg, all employees of the Joint Special Operations Command and Security Operation Training Facility are excluded from the bargaining unit.

c. Labor Management Agreement - any agreement entered into by the agency management and the Union on behalf of bargaining unit employees with regards to conditions of employment. Currently, we have the Multi-Unit Contract Agreement between HQ, XVIII Airborne Corps and Fort Bragg and the American Federation of Government Employees (AFGE), Local 1770. In addition, we have a negotiated agreement covering the Total Army Performance Evaluation System, the Fort Bragg Recruitment and Placement Plan, the Smoking Policy and Alternate Work Schedules. Fort Bragg also has a "Partnership Agreement" with AFGE and NAGE.

d. Exclusive Recognition - designation accorded to a labor organization when the organization has been elected in a secret ballot by a majority of those eligible bargaining unit employees who voted. A bargaining unit will be determined to be an appropriate unit if there exists a clear and identifiable community of interest among employees concerned and if it promotes or contributes to effective dealings between agency management and the Union.

e. Official Time (1) for employees seeking representational assistance from the Union and, (2) for Union officers and stewards to perform the representation and related functions, is governed by the provisions of the labor management agreement.

NOTE: Internal Union business may not be conducted on official time. Internal Union business is defined as the running of the Union, collecting dues, solicitation of membership and campaigning or running for an office in the Union.

28-3. POLICY.

a. All managers and supervisors, both military and civilian are responsible for adhering to and carrying out the requirements of 5 USC Chapter 71, OPM, DOD and Army Regulations. All civilians not excluded from the bargaining unit have the right to form or join a recognized Union, or to refrain from such activity. The law allows the exercise of these rights freely and without fear of penalty or reprisal. Any attempt by management to interfere with the exercise of any rights under the law is an **Unfair Labor Practice (ULP)**.

b. Officers of AFGE Local 1770 have the right to meet with commanders, and other management officials for the purpose of discussing personnel policies, practices and working conditions of bargaining unit employees. Managers have the right to have their servicing MER Specialist present when these meetings take place. Contact your servicing specialist at 6-8905 or 6-9138 for assistance.

c. The MER division is the liaison between the manager and the Union. Your servicing MER specialist should be contacted:

(1) When a letter or other correspondence is received from the Union or a written reply to the Union is necessary.

(2) Prior to meeting with Union officers at their request, or responding to telephone inquiries by Union officers for the purpose of discussing changes in conditions of employment

(3) During the early formulation of management initiated plans that may affect personnel policies and/or working conditions, such as relocation of employees, reorganization, changes in parking etc. **Note: Bypassing the Union when implementing plans to relocate employees is the PRIMARY cause of Union initiated ULP charges against Fort Bragg Activities.**

(4) Prior to arranging a management initiated meeting with Union officers for the purpose of discussing personnel policies and practices and working conditions.

(5) When learning of any Union plans to conduct internal Union business.

d. This policy is not intended to restrict officials from acting on Union notification of emergency situations, which may impact on the health, safety, and security of employees. Additionally, this policy is not intended to stop or otherwise restrict the day to day informal working relationships between managers and the Union stewards within an organization. Such informal working relationships are encouraged.

28-4. UNFAIR LABOR PRACTICES.

a. It is an Unfair Labor Practice for management to engage in any of the following activities:

(1) Interfere with, restrain, or coerce any employee in the exercise of the rights assured by 5 USC Chapter 71.

(2) Encourage or discourage membership in any Union.

(3) Sponsor, control or otherwise assist any labor organization.

(4) Discipline or otherwise discriminate against an employee because of the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under 5 USC Chapter 71.

(5) Refuse to consult or negotiate in good faith with the Union.

(6) Enforce any regulation that is in conflict with any applicable labor management agreement, if the agreement was in effect before the date the rule or regulation was prescribed.

(7) Fail or refuse to cooperate in impasse procedures and impasse decisions as required by 5 USC Chapter 71.

(8) Otherwise fail to comply with any provision of 5 USC Chapter 71.

b. It is a ULP for the Union to engage in any of the following activities:

(1) To interfere with, restrain, or coerce any employee in the exercise by the employee of any right under 5 USC Chapter 71.

(2) To cause or attempt to cause the agency to discriminate against any employee in the exercise by the employee of any right under 5 USC Chapter 71.

(3) To coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee.

(4) To discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or non-preferential civil service status, political affiliation, marital status, or handicapping conditions.

(5) To refuse to consult or negotiate in good faith with the agency as required by 5 USC Chapter 71.

(6) To fail or refuse to cooperate in impasse procedures and impasse decisions as required by 5 USC Chapter 71.

(7) To call or participate in a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or to condone such activity by failing to take action to prevent or stop such activity.

(8) To otherwise fail or refuse to comply with any provision of 5 USC Chapter 71.

Allegations of ULPs committed by management are reported to the Federal Labor Relations Authority by the Union. Allegations of ULPs committed by the Union should be reported to the MER Division for processing.

28-5. NEGOTIATIONS.

Management has an obligation to negotiate with the Union over those items specifically spelled out in the Labor Management Statute. Negotiations fall into two categories. One is contract negotiations and the other is "impact and implementation" bargaining. Any planned change in working conditions, no matter how minor, **MUST** be negotiated with the Union. Failure to implement a change without engaging in negotiations is a ULP. If you are contemplating a change in the working conditions of bargaining unit employees, contact your servicing MER Specialist prior to making the change.

28-6. FORMAL DISCUSSIONS.

a. 5 USC Chapter 71, Section 7114 states that an exclusive representative (the Union) shall be given an opportunity to be represented at any formal discussions between one or more agency representatives and one or more bargaining unit members or their representatives concerning any grievance or any personnel policy or other general conditions of employment. The following are examples of formal discussions that trigger the right of the Union to be present:

(1) An employee files a grievance, but chooses not to have the Union represent him/her. The Union must be invited to be an observer of the process.

(2) A supervisor holds a staff meeting. All employees are required to attend and minutes of the meeting are taken and passed on to employees who are absent.

(3) A supervisor gathers his/her staff to discuss a potential change in the way they currently conduct their work.

(4) A supervisor wants to gather his/her staff to discuss or provide an interpretation of an existing personnel policy or practice such as a provision in the Labor Management Agreement or a regulation.

(5) A meeting at which a higher level manager attends and speaks to the employees.

b. Routine, casual discussions of work assignments, methods of performing work, performance evaluations, counselings or opinions about such matters are not formal discussions. The Union, therefore, has no entitlement to attend such meetings. At formal discussions, the Union has the right to designate it's own representative. Do not assume that since you have a Union steward in your shop, and you have notified him/her of the meeting, you have notified the Union. A notice should be sent to

your servicing MER Specialist at least 10 workdays prior to the meeting. This will give your specialist time to notify the Union and for them to designate someone to attend. If you hold staff meetings on a regular basis, one notice yearly can be sent to the Union for their information. If in doubt about whether or not a meeting is formal, call your servicing MER Specialist.

28-7. USE OF GOVERNMENT FACILITIES.

The Union is provided with building space that it uses for the conduct of Union business. They are allowed access to telephones in all work areas for local phone calls. They are entitled to space on the unofficial portions of bulletin boards, if requested.

28-8. UNION DUES.

Payment of dues to the Union is a decision made by each individual and not of concern to management. Union dues for bargaining unit members is accomplished through payroll deductions and can be stopped only at prescribed times.