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Policies and Procedures

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This P&P establishes policies and procedures applicable to labor-management relations within Research, Education, and Economics (REE) and implements those of the Department; recognizes the role of labor organizations representing REE employees; and promotes effective, equitable, and uniform implementation within REE of the policies, rights, and responsibilities prescribed in 5 USC 71, and other applicable laws, rules, and regulations.

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1. Introduction

This P&P defines the responsibilities for the labor management relations program under the current organization, eliminates dated information, and reflects new policies promulgated by the Federal Labor Relations Authority (FLRA). Because the changes are extensive, the location of specific changes is not shown.

2. Authorities

- 5 United States Code (USC) Chapter 71
- Federal Labor Relations Authority (FLRA)

3. Policy

Employee Participation. REE recognizes that employees have the right to form, join, and assist any labor organization or refrain from any such activity, freely and without fear of penalty or reprisal, and to be protected in the exercise of such right. Except as provided under “**Conflict of Interest**” below, this includes the right to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization, and to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees.

Neutrality. All REE supervisors and management officials must remain neutral with regard to questions of subordinates’ membership or nonmembership in any labor organization, as well as which labor organization such employees might choose to represent them.

Conflict of Interest. To avoid conflicts of interest between the unofficial activities of employees and their official responsibilities, the following is REE policy:

- The individuals listed below may join any labor organization, but may not represent or participate in the management of any such organization:
 - Management officials and supervisors unless such individuals voted to be represented by a labor organization in an FLRA supervised election.
 - Employees engaged in human resources work in other than a purely clerical capacity.
 - Employees whose duties require that they represent REE or any of its subdivisions or activities in consultations or negotiations with labor organizations.
 - Confidential employees.

- REE management with recognized labor organizations or with labor organizations seeking exclusive recognition must periodically review their roster of union officers, stewards, and representatives to determine whether any employee mentioned above is serving in such a capacity.
- When an employee mentioned above is found to be serving as a union officer, steward, or representative, or is an officer or other agent of a labor organization which conflicts or appears to conflict with the proper exercise of his/her official duties or responsibilities, the following procedure shall apply:
 - The employee will be advised in writing that his/her holding of union office, serving as a union representative or agent, or conduct conflicts with, or is incompatible with, the proper exercise of his/her official duties or responsibilities and that the employee will be given a reasonable opportunity to rectify the situation.
 - A copy of such notice shall be given to the labor organization involved.
 - If the employee and/or the labor organization disagrees with the management determination, the matter will be forwarded to the Human Resources Division (HRD), Employee Relations Branch (ERB), for transmittal to the Deputy Administrator, Administrative and Financial Management, for review and final REE decision. Any questions regarding the determination should be forwarded to FLRA for determination.

4. Summary of Responsibilities

Management Officials and Supervisors:

- Deal in good faith with representatives of labor organizations so that the intent and purpose of 5 USC Chapter 71 are implemented fully and appropriately.
- Report to HRD and to higher levels of supervision any incidents relating to:
 - Visits by labor organization representatives for any purpose. (For example, requests for information, discussions on grievances or disputes, etc.)
 - Requests from labor organization representatives for permission to conduct organizing campaigns.
 - Petitions filed by labor organizations with the FLRA for exclusive recognition at any REE activity.

- Requests from exclusively recognized labor organizations for use of official facilities.
- Requests from exclusively recognized labor organizations for formal negotiations or consultations.
- Disputes over the interpretation or application of the provisions of a negotiated agreement, or applicable laws or regulations (for example, informal or formal grievances filed by an employee or union).
- Any written or oral decisions or understanding on the matters under Section 3, Policy, above.
- Any other matters of a significant nature including, but not limited to, allegations of unfair labor or management practices, apparent or alleged violations of the provisions of a negotiated agreement, work stoppages, or other activity which is prohibited under law or regulations.
- Advise HRD and higher-level management of problems caused by, or related to, any discretionary provisions of a negotiated agreement, including a recommendation for modification or improvement.
- Serve as a member of a negotiating committee for management when designated.
- Issue written or oral decisions on employee or labor organization grievances when required by the provisions of a negotiated agreement.
- Represent REE in proceedings or disputes involving authorities outside REE.

Human Resources Division:

- Acts as liaison with the Department and the national offices of local labor organizations holding exclusive recognition in REE.
- Acts as the chief negotiator or principal management representative in negotiations, consultations, and disputes or impasse proceedings.
- Reviews negotiated agreements for conformance with applicable laws, rules, and regulations.
- Carries out operational and planning aspects of the REE Labor Management Relations (LMR) program, including:
 - Providing day-to-day advice and guidance to supervisors and managers.

- Consulting with line management (including Area officials) on union proposals and other issues raised in negotiations.
- Responding to requests from FLRA and the Federal Services Impasses Panel (FSIP) for information.
- Notifying the Federal Mediation and Conciliation Service (FMCS) of negotiations, pending and in progress.
- Conducting representation elections.
- Planning and conducting LMR courses for ARS supervisors, management officials, and human resources specialists.
- Responding to labor organization requests that involve Agency policies.
- Reviewing dues withholding authorizations to verify employee eligibility and notifying the National Finance Center (NFC) when employees are no longer eligible for withholding.
- Assigning LMR codes to positions.
- Consulting with management bargaining teams regarding negotiations and sending representative(s) to the bargaining table when appropriate.
- Supplying any necessary witnesses in third-party proceedings.

5. Recognition

Recognition of a labor organization shall be granted in accordance with 5 USC Chapter 71 and the regulations of FLRA.

When a labor organization has been accorded exclusive recognition, it is the exclusive representative of employees in the unit it represents and is entitled to act for and negotiate collective bargaining agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership. The labor organization shall be given the opportunity to be represented at:

- Any formal discussion between one or more representatives of management and one or more employees in the unit or their representatives concerning any grievance, any human resources policy or practices, or other general condition of employment.

- Any examination of an employee in the unit by a representative of management in connection with an investigation if:
 - the employee reasonably believes that the examination may result in disciplinary action against the employee; and
 - the employee requests representation.

6. Collaborative Labor Relations Strategy

To foster better communication between union and management, a Collaborative Labor Relations Strategy is used and relies on interest-based problem solving where union and management officials resolve issues that would otherwise be addressed through formal labor relations processes under the Federal Service Labor Management Relations Statute (FSLMRS). It is characterized by predecisional involvement of union representatives in issue identification and resolution process, effective communication between the parties, and mutual trust. It does not involve comanagement by the union.

7. Compliance Labor Relations Strategy

Compliance Labor Relations Strategy is sometimes necessary and relies on the enforcement of rights and obligations created by the FSLMRS and collective bargaining agreements. It is characterized by the exercise of formal labor relations dispute resolution processes, clearly defined results or decisions, and application of law and regulations. The procedures are typically adversarial.

8. Use Of Official Facilities

When **no** labor organization has been granted exclusive recognition, labor organizations will be afforded reasonable opportunities to solicit membership among employees during nonwork hours and in nonwork areas. This includes, subject to normal security regulations, the posting or distribution of literature and the holding of organizational meetings.

When a labor organization **has** been granted exclusive recognition, official facilities may be utilized only as provided for under the negotiated agreement between the parties, or to the extent authorized by the appropriate supervisor or management official.

9. Use Of Official Time

Except as provided under the terms of a negotiated agreement or under appropriate laws, rules, and regulations, employees must not be on official time when acting as a labor organization representative or agent. Employees acting in such a capacity on official time must notify their Time and Attendance clerk of the amount and use of the time for recordkeeping purposes.

10. Furnishing Information

Lists of names, positions, titles, grades, and/or duty stations of activity or unit employees will be furnished to labor organizations upon request. If the cost of preparing such lists is significant, a charge may be made to recover the actual cost to the activity. In the case of labor organizations granted exclusive recognition, the frequency with which updated lists of unit employees are furnished is a matter for negotiations.

11. Dues Deduction

Employee Eligibility. An employee will be eligible to allot dues to a labor organization through payroll withholding under the following conditions:

- The employee must be a member of an exclusive unit.
- The labor organization having exclusive recognition in such unit must have a memorandum of understanding with the Department in effect.

Procedures. Procedures for voluntary initiation and revocation of dues withholding are contained in memoranda of understanding between the national offices of recognized labor organizations and USDA. HRD is responsible for all transmittals to NFC.

Employees who change from one local to another and who want to continue dues withholding must obtain form AD-356 from HRD, complete it, and return it to HRD for transmittal to NFC.

When an employee moves from an organization with exclusive recognition to one without recognition, HRD will submit AD-356A to NFC to discontinue the withholding.

HRD will forward copies of completed AD-356's and AD-356A's to the affected labor organizations at the time such completed forms are transmitted to NFC for processing.

12. Expenses Of Labor Organization Representatives

Travel Expenses. Employees acting as labor organization representatives are entitled to payment of travel expenses in accordance with laws, rules, regulations, bargained agreements or ground rules and where it is found to be in the primary interest of the U.S. Government. However, travel expenses will not be paid to attend labor organization meetings, conferences, or training sessions.

Overtime. Overtime compensation will not be paid to an employee solely because, while attending a meeting to which the expenses are paid by REE, the employee works hours for which he/she would otherwise receive overtime compensation.

13. Glossary

Abbreviations

- ERB Employee Relations Branch
- FLRA Federal Labor Relations Authority
- FMCS Federal Mediation and Conciliation Service
- FSIP Federal Service Impasses Panel
- FSLMRS Federal Service Labor Management Relations Statute
- HRD Human Resources Division
- LMR Labor Management Relations
- NFC National Finance Center
- REE Research, Education, and Economics
- USC United States Code

Forms

- AD-356 Dues Change - Between Locals Within a National Labor Organization.
- AD-356A Cancellation of Withholding of Dues to Labor Organizations and Associations of Supervisors or Managers.
- SF-1187 Request for Payroll Deductions for Labor Organization Dues.
- SF-1188 Cancellation of Payroll Deductions for Labor Organization Dues.

Definitions

Bargaining Unit. A grouping of employees found to be appropriate for purposes of recognition and dealings with management.

Confidential Employee. An employee who acts confidentially with respect to an individual who formulates or effectuates management policies in the field of labor-management relations.

Exclusive Recognition. Any labor organization which is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of the Federal Service Labor-Management Relations Statute.

Labor Organization. An organization composed in whole or in part of employees who participate and pay dues. A labor organization's purpose is to deal with an agency concerning grievances and conditions of employment, but does not include:

- an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or disability;
- an organization that advocates the overthrow of the constitutional form of government of the United States;
- an organization sponsored by an agency; or
- an organization that participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike.

Labor Organization Representative. A person specifically designated by a labor organization to represent the organization in dealings with management **or** a person or employee acting as an agent or representative of a labor organization in dealings with management and/or employees with or without specific designation by the organization.

Management Official. An individual employed by an agency whose position requires or authorizes the individual to formulate, determine, or influence the policies of the agency.

Supervisor. An individual employed by an agency with the authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.

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