



Deputy Chief Management Officer
of the Department of Defense

ADMINISTRATIVE INSTRUCTION

NUMBER 99

August 25, 2011

Incorporating Change 1, April 13, 2017

HRD, WHS

SUBJECT: Labor-Management Relations

- References:**
- (a) Administrative Instruction 99, "Labor-Management Relations," August 26, 1996 (hereby cancelled)
 - (b) DoD Directive 5110.04, "Washington Headquarters Services (WHS)," October 19, 2001, March 27, 2013
 - (c) DoD Instruction 1400.25, Volume 711, "DoD Civilian Personnel Management System: Labor Management Relations," December 3, 1996
 - (d) Sections 7114 and 7116 of Chapter 71 of title 5, United States Code
 - (e) Public Law 95-454, "Civil Service Reform Act," October 13, 1978

1. **PURPOSE.** This Administrative Instruction (AI) reissues Reference (a) in accordance with the authority in Reference (b) to implement policy and update responsibilities and procedures for the Federal Labor-Management Relations Program in accordance with Reference (c) and Reference (d).

2. **APPLICABILITY.** This AI applies to OSD, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Defense Agencies, and the DoD Field Activities in the National Capital Region that are serviced by Washington Headquarters Services (WHS) (hereinafter referred to collectively as the "WHS-Serviced Components") where a labor organization holds (or seeks to hold) exclusive recognition. This AI shall be used in conjunction with any applicable collective bargaining agreements.

3. **DEFINITIONS.** See Glossary.

4. **POLICY.** It is DoD policy according to Reference (c) that labor-management relationships shall be established that are committed to pursuing solutions that promote increased quality of

work life and productivity, customer service, mission accomplishment, efficiency, employee empowerment, organizational performance, and military readiness.

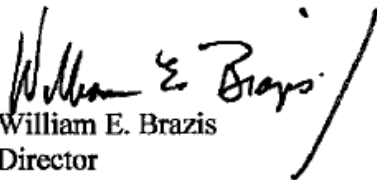
5. RESPONSIBILITIES. See Enclosure.

6. PROCEDURES. WHS-Serviced Components shall follow the procedures and requirements in Reference (c).

7. RELEASABILITY. **Cleared for public release.** This AI is available on the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

8. SUMMARY OF CHANGE 1. The changes to this issuance are administrative and update organizational titles and references for accuracy.

9. EFFECTIVE DATE. This AI is effective August 25, 2011.


William E. Brazis
Director
Washington Headquarters Services

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ENCLOSURE

RESPONSIBILITIES

1. DIRECTOR, WHS. The Director, WHS, under the authority, direction, and control of the Director of Administration, Office of the Deputy Chief Management Officer of the Department of Defense, shall oversee implementation of this AI.

2. DIRECTOR, HUMAN RESOURCES DIRECTORATE (HRD), WHS. The Director, HRD, under the authority, direction, and control of the Director, WHS, shall develop an effective labor-management relations program.

3. ASSISTANT DIRECTOR, LABOR AND MANAGEMENT EMPLOYEE RELATIONS (LMER) DIVISION, HRD, WHS. The Assistant Director, LMER Division, HRD, under the authority, direction, and control of the Director, HRD, shall:
 - a. Administer the Labor-Management Relations Program and oversee the negotiation and administration of applicable collective bargaining agreements.

 - b. Provide technical guidance on regulations, collective bargaining agreements, and other matters concerned with the administration of the Labor-Management Relations Program, coordinating with the General Counsel, WHS, when appropriate.

 - c. Train supervisors and management officials on their responsibilities pursuant to Reference (d) and any applicable collective bargaining agreements.

 - d. Represent WHS-Serviced Components in cases involving unfair labor practice (ULP) charges and bargaining unit issues before the Federal Labor Relations Authority (FLRA); impasse cases before the Federal Service Impasses Panel (FSIP) and any other third-party proceedings, coordinating such actions with the General Counsel, WHS, when appropriate.

 - e. Designate a Labor Relations Officer, WHS, or other authorized individual to serve as chief negotiator in any negotiated agreement with the exclusive representative of employees in a bargaining unit. An individual designated as a chief negotiator must undergo appropriate training prior to the start of negotiations, unless the individual is already experienced in labor negotiations.

 - f. Coordinate the actions prescribed in Reference (c) with the Defense Civilian Personnel Advisory Service. These actions include, but are not limited to, agency head review of negotiated agreements, formal negotiability determinations, and review of arbitration awards.

 - g. Prepare reports and maintain statistics on activities in the Labor-Management Relations Program.

4. GENERAL COUNSEL, WHS. The General Counsel, WHS, under the authority, direction, and control of the Director, WHS, shall:

a. Provide legal advice in labor-management relations matters including collective bargaining, negotiation impasses, ULP charges, grievances, arbitrations, and other Federal personnel law issues, as necessary.

b. Provide legal sufficiency review of settlement agreements for relevant management officials and the Assistant Director, LMER Division, or WHS Labor Relations Officer.

c. Represent the agency before the FLRA and any other third-party proceedings, when necessary.

5. HEADS OF THE WHS-SERVICED COMPONENTS. The Heads of the WHS-Serviced Components shall:

a. Ensure all supervisors receive adequate training on the provisions of the collective bargaining agreement(s) covering their employees.

b. Allocate sufficient funds to cover expenses related to arbitration or any other third-party appeal hearing.

c. Promptly inform the Assistant Director, LMER Division, or WHS Labor Relations Officer upon receipt of any representation petitions, grievances, arbitration requests, ULP charges and complaints, or other similar appeals or binding dispute resolution related to labor-management relations and provide necessary information and evidence related to the case.

d. Coordinate with the Assistant Director, LMER Division, or WHS Labor Relations Officer on the actions prescribed in Reference (c). These actions include, but are not limited to, agency head review of negotiated agreements, formal negotiability determinations, and review of arbitration awards.

e. Notify the Assistant Director, LMER Division, or WHS Labor Relations Officer of the Component's intent to negotiate a collective bargaining agreement or upon receipt of any request to bargain from a labor organization.

f. Monitor the use of official time by union representatives and track the amount of time used in each of the following categories: term negotiations, mid-term negotiations, grievances and appeals, general labor-management relations, and any other category of union official time provided for in an applicable collective bargaining agreement.

g. Provide the Assistant Director, LMER Division, or WHS Labor Relations Officer with a report of union official time usage on a quarterly basis.

h. Coordinate bargaining unit status code determinations with the Assistant Director, LMER Division, or WHS Labor Relations Officer.

i. Inform bargaining unit employees annually of their Weingarten right to union representation during investigative examinations pursuant to section 7114 of Reference (d).

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

AI	Administrative Instruction
FLRA	Federal Labor Relations Authority
FSIP	Federal Service Impasses Panel
HRD	Human Resources Directorate
LMER	Labor and Management Employee Relations
ULP	unfair labor practice
WHS	Washington Headquarters Services

PART II. DEFINITIONS

These terms and their definitions are for the purpose of this AI.

arbitration. The process of resolving a dispute or a grievance outside of the court system by presenting it to an impartial third party (“arbitrator”) for a decision that is binding.

bargaining unit. A group of employees that a labor organization represents or seeks to represent and that the FLRA finds appropriate consistent with the criteria of Reference (d) for collective bargaining purposes.

collective bargaining agreement. A negotiated agreement establishing the terms and conditions of employment governing the relationship between management and an exclusive representative.

exclusive representative. A labor organization that is certified by the FLRA as the exclusive representative of a bargaining unit of employees as a result of receiving a majority of votes cast in a representational election or because it had been recognized as the exclusive representative before passage of Public Law 95-454 (Reference (e)). The rights afforded to the exclusive representative of employees in a bargaining unit include, among other things, the right to negotiate certain aspects of the conditions of employment of bargaining unit employees.

FLRA. The independent Federal agency responsible for administering Reference (d). It decides, among other things, representation issues, ULP charges, negotiability disputes, exceptions to

arbitration awards, as well as resolve disputes over consultation rights regarding agency-wide and Government-wide regulations.

FSIP. An entity within the FLRA that resolves bargaining impasses, chiefly by ordering the parties to adopt certain contractual provisions relating to the conditions of employment of bargaining unit employees.

impasse. The point in labor negotiations at which reaching an agreement is impossible because parties are unable to reach agreement and are deadlocked.

labor organization. A union, i.e., an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has the purpose of dealing with an agency concerning grievances and conditions of employment.

official time. Duty time during which employees, serving in their capacity as union representatives, perform representational activities without loss of pay or charge to leave. Representational activities include, but are not limited to, participation in negotiations, processing grievances, presentation in arbitrations, and representation of employees at meetings with management.

representation petition. A petition, filed with the FLRA, in which a labor organization seeks to be the exclusive representative of an appropriate unit of employees, or in which employees in an existing unit want to decertify the incumbent labor organization.

ULP. An action by management or a labor organization that is in violation of any of the provisions in subchapter 7116 of Reference (d). Violations include, but are not limited to, encouraging or discouraging membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment; interfering with, restraining, or coercing any employee in the exercise of any right in accordance with Reference (d); and refusing to negotiate in good faith.

Weingarten right. Pursuant to section 7114 of Reference (d), an employee in the bargaining unit being examined in an investigation is entitled to union representation if the examination is conducted by a representative of the agency, the employee reasonably believes that the examination may result in disciplinary action, and the employee asks for representation.