



## ADMINISTRATIVE INSTRUCTION 99

# WASHINGTON HEADQUARTERS SERVICES LABOR- MANAGEMENT RELATIONS PROGRAM

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**Originating Component:** Office of the Director of Administration and Management

**Effective:** July 21, 2021  
**Change 1 Effective:** December 6, 2021

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**Reissues and Cancels:** Administrative Instruction 99, "Labor-Management Relations," August 25, 2011, as amended

**Approved by:** Regina F. Meiners, Acting Director, Washington Headquarters Services  
**Change 1 Approved by:** Christopher Choate, Chief, Directives Division

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**Purpose:** In accordance with the authority in DoD Directive 5110.04 and DoD Instruction (DoDI) 5025.01, this issuance implements policy, assigns responsibilities, and prescribes procedures for the Washington Headquarters Services (WHS) Labor-Management Relations Program in accordance with Volume 711 of DoDI 1400.25.

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## **SECTION 1: GENERAL ISSUANCE INFORMATION**

### **1.1. APPLICABILITY.**

a. This issuance applies to OSD, and the Defense Agencies and DoD Field Activities that are serviced by WHS (referred to collectively in this issuance as the “WHS-serviced Components”).

b. The Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff are exempt from the Federal Service Labor-Management Relations Statute pursuant to Executive Order 12171, as amended by Executive Order 13760.

### **1.2. POLICY.**

In accordance with Volume 711 of DoDI 1400.25, and the authority granted to WHS in DoD Directive 5110.04, it is WHS policy to establish labor-management relationships 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.

### **1.3. SUMMARY OF CHANGE 1.**

This change is administrative. It corrects the omission of DoDI 5025.01 as an authoritative source in the purpose statement as required by DoD issuance standards and Organizational Policy and Decision Support Directorate, Office of the Director of Administration and Management guidance.

## **SECTION 2: RESPONSIBILITIES**

### **2.1. DIRECTOR, WHS.**

Under the authority, direction, and control of the Director of Administration and Management, the Director, WHS, oversees implementation of this issuance.

### **2.2. CHIEF HUMAN RESOURCE OFFICER, HUMAN RESOURCES DIRECTORATE (HRD).**

Under the authority, direction, and control of the Director, WHS, the Chief Human Resource Officer, HRD develops an effective WHS labor-management relations program.

### **2.3. ASSISTANT DIRECTOR, LABOR AND MANAGEMENT EMPLOYEE RELATIONS (LMER) DIVISION, HRD, WHS.**

Under the authority, direction, and control of the Chief Human Resource Officer, HRD, the Assistant Director, LMER Division, HRD, WHS:

- a. Administers the WHS Labor-Management Relations Program and oversees the negotiation and administration of applicable collective bargaining agreements.
- b. Coordinates with the General Counsel, WHS, as appropriate, to:
  - (1) Provide technical guidance on regulations, collective bargaining agreements, and other matters concerned with the administration of the WHS Labor-Management Relations Program.
  - (2) 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, and any other third-party proceedings.
- c. Trains supervisors and management officials on their responsibilities pursuant to Chapter 71 of Title 5, United States Code (U.S.C.), Volume 711 of DoDI 1400.25, and any applicable collective bargaining agreements.
- d. Designates 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 before the start of negotiations, unless the individual is already experienced in labor negotiations.
- e. Coordinates the actions prescribed in Volume 711 of DoDI 1400.25 with the Defense Civilian Personnel Advisory Service (DCPAS). These actions include, but are not limited to, agency head review of negotiated agreements, formal negotiability determinations, and review of

arbitration awards. WHS's coordination with DCPAS does not negate any authority, or responsibilities of DCPAS as provided in Volume 711 of DoDI 1400.25.

f. Prepares reports and maintains statistics on activities in the WHS Labor-Management Relations Program.

#### **2.4. GENERAL COUNSEL, WHS.**

Under the authority, direction, and control of the General Counsel of the Department of Defense/Director, Defense Legal Services Agency, acting through the Deputy DoD General Counsel (Personnel and Health Policy), the General Counsel, WHS:

a. Provides legal advice on WHS, or WHS-serviced Component labor-management relations matters, including collective bargaining, negotiation impasses, ULP charges, grievances, arbitrations, and other Federal personnel law issues, as necessary.

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

c. Represents WHS, or a WHS-serviced Component, before the FLRA and any other third-party proceedings, when necessary.

#### **2.5. WHS-SERVICED COMPONENTS HEADS.**

The WHS-Serviced Components heads:

a. Require all supervisors to 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:

(1) Upon receipt of any representation petitions, grievances, arbitration requests, ULP charges and complaints, or other similar appeals or binding dispute resolutions related to labor-management relations, and provide necessary information and evidence related to the case.

(2) Of the Component's intent to negotiate a collective bargaining agreement or upon receipt of any request to bargain from a labor organization.

d. Coordinate with the Assistant Director, LMER Division, or WHS Labor Relations Officer on:

(1) The actions prescribed in Volume 711 of DoDI 1400.25. These actions include, but are not limited to, agency head review of negotiated agreements, formal negotiability determinations, and review of arbitration awards.

(2) Maintaining accurate and up-to-date bargaining unit status codes and records.

e. Monitor the use of official time by WHS, or WHS-serviced Component 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 in an applicable collective bargaining agreement.

f. On a quarterly basis, provide the Assistant Director, LMER Division, or WHS Labor Relations Officer with a report of WHS or WHS-serviced Component union official time usage.

g. Annually inform bargaining unit employees of their Weingarten Right to union representation during investigative examinations pursuant to Section 7114(a)(2)(B) of Chapter 71 of Title 5, U.S.C., which provides that a bargaining unit employee who is examined in an investigation is entitled to union representation if:

(1) The examination is conducted by a representative of the agency.

(2) The employee reasonably believes that the examination may result in disciplinary action against himself or herself.

(3) The employee requests representation.

## GLOSSARY

### G.1. ACRONYMS.

ACRONYM	MEANING
DCPAS	Defense Civilian Personnel Advisory Service
DoDI	DoD instruction
FLRA	Federal Labor Relations Authority
HRD	Human Resources Directorate
LMER	labor and management employee relations
ULP	unfair labor practice
U.S.C.	United States Code
WHS	Washington Headquarters Services

### G.2. DEFINITIONS.

Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
<b>arbitration</b>	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.
<b>bargaining unit</b>	A group of employees that a labor organization represents or seeks to represent and that the FLRA finds appropriate, consistent with the criteria of Chapter 71 of Title 5, U.S.C. for collective bargaining purposes.
<b>collective bargaining agreement</b>	A negotiated agreement establishing the terms and conditions of employment governing the relationship between management and an exclusive representative.
<b>exclusive representative</b>	Defined in Section 7103 of Title 5, U.S.C.

<b>TERM</b>	<b>DEFINITION</b>
<b>Federal Service Impasses Panel</b>	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.
<b>FLRA</b>	Defined in Section 7104 of Title 5, U.S.C.
<b>impasse</b>	The point in labor negotiations at which reaching an agreement is impossible because parties are deadlocked.
<b>labor organization</b>	A union, is 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.
<b>official time</b>	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.
<b>representation</b>	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.
<b>ULP</b>	An action by management or a labor organization that is in violation of any of the provisions in Chapter 71 of Title 5, U.S.C. 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 pursuant to Chapter 71 of Title 5, U.S.C.; and refusing to negotiate in good faith.
<b>Weingarten Rights</b>	Defined in Section 7114(a)(2)(B) of Title 5, U.S.C.



## **REFERENCES**

DoD Directive 5110.04, “Washington Headquarters Services (WHS),” March 27, 2013  
DoD Instruction 1400.25, Volume 711, “DoD Civilian Personnel Management System: Labor Management Relations,” February 26, 2020  
DoD Instruction 5025.01, “DoD Issuances Program,” August 1, 2016, as amended  
Executive Order 12171, “Exclusions from the Federal Labor-Management Relations Program,” November 19, 1979, as amended  
Executive Order 13760, “Exclusions from the Federal Labor-Management Relations Program,” January 12, 2017  
United States Code, Title 5