



Defense Health Agency **ADMINISTRATIVE INSTRUCTION**

NUMBER 059
July 23, 2018

J-1, HRD

SUBJECT: Labor-Management Relations Program

References: See Enclosure 1.

1. **PURPOSE.** This Defense Health Agency-Administrative Instruction (DHA-AI), based on the authority of References (a) and (b), and in accordance with the guidance of References (c) through (f):

a. Establishes the Defense Health Agency's (DHA) procedures for the DHA Labor-Management Relations Program.

b. Cancels and reissues Reference (h).

2. **APPLICABILITY.** This DHA-AI applies to:

a. All DHA personnel to include: assigned, attached, or detailed Service members, federal civilians, contractors (when required by the terms of the applicable contract), and other personnel assigned temporary or permanent duties at DHA, to include regional and field activities (remote locations) and the National Capital Region Medical Directorate activities (centers, clinics, and Medical Treatment Facilities).

b. The organizational entities of DHA where a labor organization holds (or seeks to hold) exclusive recognition and will be used in conjunction with any applicable collective bargaining agreements.

3. **POLICY IMPLEMENTATION.** It is DHA's policy, pursuant to References (a) through (f), that labor-management relationships will be established that are committed to pursuing solutions that promote increased quality of work-life and productivity; customer service; focus in operations and mission requirements; accomplishment; efficiency; employee empowerment; organizational performance; and military readiness.

4. RESPONSIBILITIES. See Enclosure 2.


5. PROCEDURES. See Enclosure 3.

6. RELEASABILITY. **Not cleared for public release**. This DHA-AI is available to users with Common Access Card authorization on the DHA SharePoint site at:
<http://www.health.mil/dhapublications>.

7. EFFECTIVE DATE. This DHA-AI:

a. Is effective upon signature.

b. Will expire 10 years from the date of signature if it has not been reissued or cancelled before this date in accordance with DHA-Procedural Instruction 5025.01 (Reference (c)).



R. C. BONO
VADM, MC, USN
Director

Enclosures

1. References
2. Responsibilities
3. Procedures

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5136.01, “Assistant Secretary of Defense for Health Affairs (ASD(HA)),” September 30, 2013, as amended
- (b) DoD Directive 5136.13, “Defense Health Agency (DHA),” September 30, 2013
- (c) DHA-Procedural Instruction 5025.01, “Publication System,” August 21, 2015
- (d) DoD Instruction 1400.25, Volume 711, “DoD Civilian Personnel Management System: Labor Management Relations,” December 1, 1996
- (e) United States Code, Title 5, Chapter 71, Sections 7114 and 7116
- (f) Public Law 95-454, “Civil Service Reform Act of 1978,” October 13, 1978
- (g) DoD Financial Management Regulation 7000.14 - R, Volume 8, “Civilian Pay Policy,” November 2015
- (h) DHA-Administrative Instruction 059, “Labor-Management Relations,” July 9, 2014 (hereby cancelled)

ENCLOSURE 2

RESPONSIBILITIES

1. DIRECTOR, DHA. The Director, DHA, will oversee the implementation of this DHA-AI.

2. ASSISTANT DIRECTORS, DHA. The Assistant Directors, DHA, will assist in the implementation of this DHA-AI.

3. DEPUTY ASSISTANT DIRECTORS, DHA. The Deputy Assistant Directors, DHA, will:
 - a. Ensure that all supervisors receive adequate training on the provisions of the collective bargaining agreement(s) covering the employees, if any exist.

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

 - c. Inform the Chief, Management Employee and Labor Relations (MELR) Branch, Human Resources Division (HRD), DHA, or the Labor Relations Officer, DHA, upon receipt of any representation petitions; grievances; arbitration requests; Unfair Labor Practice (ULP) charges and complaints; similar appeals or binding dispute resolution(s) related to labor-management relations; and provide the necessary information and evidence related to the case.

 - d. Coordinate with the Chief, MELR Branch, HRD, DHA, or the Labor Relations Officer, DHA, on the actions prescribed in Reference (d). These actions include, but are not limited to, Agency-head review of negotiated agreements, formal negotiability determinations, and a review of arbitration awards.

 - e. Notify the Chief, MELR Branch, HRD, DHA, or the Labor Relations Officer, DHA, of 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 Chief, MELR Branch, HRD, DHA, or the Labor Relations Officer, DHA, with a report of union official time usage on a quarterly basis.

 - h. Coordinate bargaining unit status code determinations with the Chief, MELR Branch,

HRD, DHA, or the Labor Relations Officer, DHA.

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

4. CHIEF, HRD, DHA. The Chief, HRD, DHA, will develop an effective DHA Labor-Management Relations Program.

5. DIRECTOR OF PERSONNEL, NATIONAL CAPITAL REGION MEDICAL DIRECTORATE (NCR MD)/J-11 AND THE CIVILIAN HUMAN RESOURCE CENTER. The Director of Personnel, NCR MD/J-11, and the Civilian Human Resource Center will be responsible for ensuring the execution of this DHA-AI.

6. CHIEF, MELR BRANCH, HRD, DHA. The Chief, MELR Branch, HRD, DHA, under the authority, direction, and control of the Chief, HRD, DHA (except for NCR MD/J-11, which includes Walter Reed National Military Medical Center, Fort Belvoir Community Hospital, and the Joint Pathology Center) will:

a. Administer the DHA 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 DHA Labor-Management Relations Program, in coordination with the Office of General Counsel (OGC), DHA, when appropriate.

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

d. Represent DHA in cases involving ULP charges and bargaining unit issues before the Federal Labor Relations Authority (FLRA), impasse cases before the Federal Services Impasses Panel and any third-party proceedings, and coordinate such actions with OGC, DHA, when appropriate.

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

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

7. CHIEF NEGOTIATOR, DHA. The Chief Negotiator, DHA, except for NCR MD/J-11 will undergo appropriate training prior to the start of negotiations, unless the individual is already experienced in labor negotiations.

8. LABOR RELATIONS OFFICER, DHA. The Labor Relations Officer, DHA, except for NCR MD/J-11, under the authority, direction, and control of the Chief, MELR Branch, HRD, DHA, will:

a. Serve on the negotiation team and/or provide administrative support to the Chief Negotiator, DHA, in any negotiated agreement with the exclusive representative of employees in a bargaining unit.

b. Represent DHA in cases involving ULP charges and bargaining unit issues before the FLRA, impasse cases before the Federal Services Impasses Panel and any third-party proceedings, and coordinate such actions with OGC, DHA, when appropriate.

9. OGC, DHA. The OGC, DHA, will:

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

b. Conduct a legal sufficiency review of settlement agreements for relevant management officials and the Chief, MELR Branch, HRD, DHA, or the Labor Relations Officer, DHA.

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

ENCLOSURE 3

PROCEDURES

1. PRELIMINARY MATTERS. These procedures are to be used to establish labor management relationships focused on supporting and maintaining a high performance workplace. They are to be used as an outline for delivering the highest quality products and services to the American public at the lowest possible cost.

2. LABOR-MANAGEMENT RELATIONS. DHA will follow the procedures and requirements in accordance with References (d) and (e), and any negotiated collective bargaining agreement.

3. DUES WITHHOLDING. DHA will withhold union dues by allotment consistent with the requirements of References (e) and (g).

4. RIGHT OF REPRESENTATION. As required by Reference (e), DHA will inform bargaining unit employees annually of their right to union representation.

GLOSSARY

PART I. ACRONYMS AND ABBREVIATIONS

| | |
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| DAD | Deputy Assistant Director |
| DHA | Defense Health Agency |
| DHA-AI | Defense Health Agency-Administrative Instruction |
| FLRA | Federal Labor Relations Authority |
| HRD | Human Resources Division |
| MELR | Management Employee and Labor Relations |
| NCR MD | National Capital Region Medical Directorate |
| OGC | Office of General Counsel |
| ULP | Unfair Labor Practice |

PART II. DEFINITIONS

These terms and their definitions are for the purposes of this DHA-AI.

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

bargaining unit. A group of employees that a labor organization represents or seeks to represent. The FLRA finds an appropriate level of consistency with the criteria of Reference (e) 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 due to receiving most votes cast in a representational election, or because it was recognized as the exclusive representative before passage of Reference (f). The rights afforded to the exclusive representative employees in a bargaining unit include, among other things, the right to negotiate certain aspects of the conditions of employment of bargaining unit employees.

Federal Services Impasses Panel. An entity with the FLRA that resolves bargaining impasses primarily by ordering the parties to adopt certain contractual provisions related to the conditions of employment of bargaining unit employees.

FLRA. The independent Federal Agency responsible for administering Reference (e). The Agency determines, among other things, representation issues, ULP charges, negotiability disputes, exceptions to arbitration awards, as well as resolves disputes over consultation rights regarding agency-wide and government-wide regulations.

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 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 of 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 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 Section 7116 of Reference (e). Violations include, but are not limited to: encouraging or discouraging membership in any labor organization by executing hire discrimination; tenure; promotion; interfering with, restraining, or coercing any employee in the exercise of any right in accordance with Reference (e); and refusing to negotiate in good faith.

Weingarten right. Pursuant to Section 7114 of Reference (e), 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 DHA, the employee reasonably believes that the examination may result in disciplinary action, and the employee asks for representation.