

Directive 344.1
12/18/90

LABOR-MANAGEMENT RELATIONS

- I.
PURPOSE This Directive states the policy and responsibilities for labor-management relations in the Agricultural Marketing Service (AMS).
- II.
REPLACEMENT This Directive replaces AMS Instruction 344-1, Rev. 2, dated 1/11/84.
HIGHLIGHTS
- III.
AUTHORITY Title VII of the Civil Service Reform Act of 1978, codified at 7 U.S.C. Chapter 71 (the Statute).
- IV.
POLICY It is AMS policy to carry out a labor-management relations program under the Statute which will:
- A. Safeguard the public interest and contribute to the effective conduct of public business.
- B. Facilitate and encourage amicable settlement of disputes involving conditions of employment.
- C. Facilitate the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of AMS operations.
- V.
RESPONSI- A. Supervisors and Managers shall:
BILITIES
1. Apply the labor-management relations policies and provisions of the Statute, this Directive, and applicable negotiated agreements.
2. Maintain strict neutrality in all statements and dealings with bargaining unit employees and union officials concerning unionization or union activity.
3. Promptly notify the Personnel Division (PED) of any contacts or requests for information from:
- a. The Office of Labor-Management Relations, Office of Personnel Management.
- b. The Federal Labor Relations Authority.
- c. The Federal Service Impasses Panel.
- d. Other Government Agencies with labor-management relations responsibilities.
- e. Any labor organization with whom an official relationship has not been established.

4. Consult with PED on receipt of requests for negotiations from labor organizations.

5. Consult with PED if assistance is needed in applying AMS labor-relations policies, including the Statute.

6. Consult with PED on any unusual requests by labor organization officials for use of official time or facilities, information, or travel and per diem expenses in connection with representational activities.

7. Avoid management unfair labor practices.

8. Report labor organization unfair labor practices in accordance with this Directive.

B. Division Directors and Appropriate Managers shall:

1. Maintain primary contact with labor organizations and administer negotiated labor-management agreements.

2. Work closely with PED in administering an effective labor-management relations program.

3. Insure that appropriate labor-management relations training is provided to supervisors and other management officials in units in which a labor organization represents AMS employees.

C. PED is responsible for coordinating, overseeing, and reviewing the effectiveness of AMS labor-management relations programs, and shall:

1. Represent the Administrator, as appropriate, in conferences, negotiations, consultations, and other dealings with labor organizations.

2. Advise and assist management officials in negotiations, labor relations problems, and other dealings with labor organizations.

3. Represent AMS in representation petitions, impasse proceedings, negotiability disputes, unfair labor practice charges, arbitration cases, and related processes.

4. Maintain contact on appropriate matters with the Department's Office of Personnel, other Government offices, and labor organizations.

VI. EMPLOYEE RIGHTS

Each employee has the right to form, join, or assist any labor organization, or to refrain from doing so. Employees may exercise these rights freely and without fear of penalty or reprisal, and shall be protected in the exercise of these rights.

Except as otherwise provided in the Statute, employee rights include the right:

A. To act as the representative of a labor organization and to present the views of a labor organization to appropriate authorities in AMS and elsewhere in the Government.

B. To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under the Statute.

VII.
MANAGEMENT
RIGHTS

A. Non-Negotiable Reserved Management Rights. Nothing in the Statute or this Directive affects the authority of AMS managers to:

1. Determine the mission, budget, organization, number of employees, and internal security practices of the Agency.

2. Hire, assign, direct, layoff, and retain employees.

3. Suspend, remove, reduce in grade or pay, or take other disciplinary action against employees.

4. Assign work, make determinations with respect to contracting out, and determine the personnel by which AMS operations shall be conducted.

5. With respect to filling positions, make selections from among properly ranked and certified candidates for promotion, or from any other appropriate source.

6. Take whatever action may be necessary to carry out the Agency mission during emergencies.

B. Permissively Negotiable Management Rights. AMS managers, at their sole option, may negotiate with a labor organization concerning:

1. The numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty.

2. The technology, methods, and means of performing work.

VIII.
LABOR
ORGANIZATION
RIGHTS AND
DUTIES

A labor organization which, under the Statute, has been accorded recognition as the exclusive representative of the employees in the bargaining unit it represents has the right to:

A. Act for and negotiate collective bargaining agreements covering all employees in the unit. An exclusive representative is responsible for representing the interest of all employees in the

unit without discrimination and without regard to labor organization membership.

B. The opportunity to appropriately negotiate or consult on:

1. The procedures which management officials will observe in exercising management authorities.

2. Appropriate arrangements for employees adversely affected by the exercise of management authorities.

C. The opportunity to be present at any formal discussion between any management official(s) and any employee(s) in the bargaining unit concerning any grievance filed under the negotiated grievance procedure, or any personnel policy or practice, or other general condition of employment.

D. The opportunity to be present at any examination of a bargaining unit employee by a representative of the Agency in connection with an investigation if:

1. The employee reasonably believes that the examination may result in disciplinary action against him or her, and

2. The employee requests union representation.

IX.
UNFAIR LABOR
PRACTICES

The following are unfair labor practices under section 7116 of the Statute:

A. Management Unfair Labor Practices.

1. To interfere with, restrain, or coerce any employee in the exercise of any right under the Statute.

2. To encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment.

3. To sponsor, control, or otherwise assist any labor organization, other than to furnish, on request, the same customary and routine services and facilities which are also furnished on an impartial basis to other labor organizations having equivalent status.

4. To discipline or otherwise discriminate against an employee because the employee has filed a grievance, complaint, affidavit, or petition, or has given any information or testimony under the Statute.

5. To refuse to consult or negotiate in good faith with a labor organization as required by the

Statute.

6. To fail or refuse to cooperate in impasse procedures and impasse decisions as required by the Statute.

7. To enforce any rule or regulation (other than a rule or regulation implementing 5 U.S.C. 2302, Prohibited Personnel Practices) which is in conflict with a collective bargaining agreement which was in effect before the rule or regulation was prescribed.

8. To otherwise fail or refuse to comply with any provision of the Statute.

B. Union Unfair Labor Practices.

1. To interfere with, restrain, or coerce any employee in the exercise of any right under the Statute.

2. To cause or attempt to cause any Agency to discriminate against any employee in the exercise of any right under the Statute.

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 nonpreferential civil service status, political affiliation, marital status, or handicapping condition.

5. To refuse to consult or negotiate in good faith with an Agency as required by the Statute.

6. To fail or refuse to cooperate in impasse procedures and impasse decisions as required by the Statute.

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.

8. To condone any activity described in subparagraph 7, above, by failing to take action to prevent or stop such activity.

9. To otherwise fail or refuse to comply with any provision of the Statute.

X.
CHARGES OF
UNFAIR LABOR
PRACTICES

A charge that an Agency or a labor organization has committed an unfair labor practice may be filed with the Federal Labor Relations Authority, under the Authority's regulations, within 6 months of the occurrence of the alleged unfair labor practice.

A. Receipt of Union Charge. Any supervisor or manager who receives notice that a labor organization has filed an unfair labor practice charge against the Agency will immediately notify the Director, PED.

B. Reporting Union Unfair Labor Practices. Supervisors and managers who become aware that a labor organization may have committed an unfair labor practice will report the situation to the Director, PED.

1. Information concerning a strike, work stoppage, slowdown, or picketing will be immediately reported by telephone to the Director, PED and the appropriate program division director. The Director, PED, will take such steps as necessary to provide a full report of the situation to the Department's Director of Personnel.

2. Reports of all other possible union unfair labor practices will be forwarded, in writing, through normal channels, to the Director, PED. Such reports will contain a clear and concise statement of the facts constituting the alleged unfair labor practice, including the time and place of the occurrence, and the identities of persons having knowledge of the occurrence.

XI.
DUES
WITHHOLDING

Bargaining unit members' requests for payroll deduction of labor organization dues will be processed in accordance with AMS/FGIS Instruction Rev.2, 352-5, Voluntary Salary Allotments for Payment of Employee Labor Organization Dues.

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