General Employee Rights

Articles 17, 18, 19, 24 and 25

Agenda

• Objectives
• Open Book Research Activity
• Debrief and Presentation
  – Article 17, Employee Rights
  – Article 18, Equal Employment Opportunity
  – Article 19, Fitness for Duty
  – Article 24, Official Records
  – Article 25, Official Travel
• Questions
• What’s Next?

Objectives

• By the end of this lesson, you will be able to:
  – Identify key provisions related to employee rights.
  – Describe significant changes in Articles 17, 18, 19, 24 and 25.
**Group Activity**

Open Book Research

**Article 17 - Employee Rights**

- The purpose of the article is to define in specific terms the rights of bargaining unit employees under the Master Agreement.

**Article 17, Section 1 - General**

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<tr>
<th>Section 1F</th>
<th>Section 1G</th>
<th>Section 1H</th>
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| • Productivity is enhanced by high employee morale  
  • Employees shall endeavor to treat one another with the utmost respect and dignity  | • An employee who exercises any statutory or contractual right shall not be subjected to reprisal or retaliation  
  • Shall be treated fairly and equitably | • All VA employees will be:  
  - Provided a healthy and safe environment  
  - Encouraged to give suggestions and ideas  
  - Encouraged to enhance their work life and career development  
  - Afforded assistance and told of expectations by the Department to enable them to perform their jobs |
**Article 17, Section 2
Rights to Union Membership**

1. A bargaining unit employee’s grade level, compensation, title, or duties is used to determine the employee’s right to serve as a Union official, to represent the bargaining unit or to participate in any Union activities.
   - True or False

**Article 17, Section 3
Rights to Union Representation**

2. What two things will each new employee get at their initial orientation?
   - A. Weingarten Rights and the Master Agreement
   - B. Master Agreement and Benefits Packet
   - C. Weingarten Rights and Benefits Packet

**Article 17, Section 4
Use of Recording Devices**

3. Electronic recordings may not be transcribed.
   - True or False
** Article 17, Section 4
Use of Recording Devices

• ** "All electronic recordings will be transcribed. The employee will be given a copy of the recording at the same time they receive the transcript for review. ** The employee will **have the right** to review the transcript for accuracy, **and may make corrections. The employee will receive a copy of the final corrected transcript." **

** Article 17, Section 6
Access to Documentation

4. Under this article, employees have the right to:
   A. Be made aware of information maintained under their name/SSN
   B. Receive copies of documents maintained in their eOPF or MRPF
   C. Receive a list of systems of records in which information is maintained
   D. All of the above

• ** "In most cases, employees will be provided with copies of documents maintained in their eOPF or Merged Record Personnel Folder (MRPF)." **
• ** "When no copy of a document in the eOPF, MRPF, or other system of records is automatically provided, the employee will receive a copy upon request." **
• ** "The Department will annually provide employees with a list of systems of records in which information is maintained and retrieved by employee name, social security number, or other personal identifier." **
**Article 17, Section 9
Employee Right to Privacy**

- **"**Searches and seizures by the Department of the private property of its employees are subject to Constitutional constraints.

- Employees may store personal papers and effects in their offices, desks, and file cabinets.
  - However, a search or seizure of such items without a warrant may be justified if the Department has reasonable grounds for suspecting that the search will produce evidence that the employee is guilty of work-related misconduct.
  - or that the search is necessary for a non-investigative work-related purpose...

- Security concerns may necessitate searches of Department space or employees, subject to Constitutional constraints.

- It should be understood that employee's personal and personal items owned by the employee, such as pocketbooks, briefcases or other like materials, are not subject to search without reasonable suspicion that criminal activity is involved. **"**

5. The Department has the right to search personal property under certain conditions:
   A. If it has reasonable grounds for suspecting the employee is engaged in work-related misconduct.
   B. If the search is necessary for a non-investigative work-related purpose.
   C. At the discretion of the manager of the unit
   D. A & B
   E. All of the above

6. Personal papers and effects stored in Department areas are subject to warrantless search or seizure if the Department has reasonable grounds for suspecting the employee is engaged in work-related misconduct or the search is necessary for a non-investigative work-related purpose.
   - True or False
Article 17, Section 9
Employee Right to Privacy

7. The employee’s person and personal items (pockets, purses, backpacks, etc.) can be searched only if there is reasonable suspicion that criminal activity is involved.
   - True or False

Group Discussion
Employee Right to Privacy

Scenario 1
- Janine has been working on a report for three days. Her supervisor needs to present the report at a meeting in five minutes. Janine is out and a note on her computer says she won’t be back for an hour. Can the supervisor go through her workspace looking for the report?
**Employee Right to Privacy**

**Scenario 2**

While the supervisor is looking for the report, she notices Janine’s backpack in the corner of the cubicle. Can the supervisor check to see if the report is in the backpack?

**Employee Right to Privacy**

**Scenario 3**

While the supervisor is searching the workspace, she finds a joint (marijuana) in one of Janine’s desk drawers. Can the supervisor seize it?

**Article 17, Sections 11-13**

**Unlawful, Improper, Conflicting Orders**

8. The employee does or does not have a right to question improper, conflicting or unlawful orders.
**Article 17, Sections 11-13**

**Unlawful, Improper, Conflicting Orders**

- An employee has the right to:
  - Refuse unlawful orders.
  - Question improper orders.
  - Bring conflicting orders to the attention of an appropriate supervisor.

**Article 17, Sections 11-13**

**Unlawful, Improper, Conflicting Orders**

- Employees who find themselves in these situations should:
  - Promptly bring specific concerns for an unlawful order to a supervisor or appropriate Department official.
  - Bring specific concerns for an improper order to an appropriate supervisor.
  - Notify the appropriate supervisor of a conflict.
  - Abide by the resulting outcome.

**Article 17, Sections 11-13**

**Unlawful, Improper, Conflicting Orders**

- A VBA employee is told to dump files so the numbers come out better. Can he refuse to obey the order as unlawful?
- A VHA employee is delivering medications and believes the medication is wrong or the dose is too high. What should she do?
- An employee is told by his immediate manager to always submit accounting documentation for all work-related expenses immediately and provide him a copy. He is advised by his second level supervisor to hold expense statements until the end of the month to make the project accounting easier. What should he do?
Article 17, Section 16

Counseling

9. In situations when counseling is involved, oral counseling must be private so no union representation is allowed.
   - True or False

"When it is determined that oral counseling is necessary, the counseling will be accomplished during a private interview with the concerned employee and local union representative if requested and appropriate."

   Article 17, Section 16, Paragraph A

Guidelines for Oral Counseling

- For the purposes of this article, the supervisor should advise the employee of his/her right to union representation when:
  - Supervisor starts asking questions about conduct
  - Employee’s conduct is subject of a grievance
Article 17, Section 16

Counseling

10. For written counseling, how many copies of written statements are provided to the employee?

Article 18 – Equal Employment Opportunity

• Section 1, Policy
• Section 2, EEO Program
• Section 3, Reasonable Accommodations for Employees with Disabilities

Article 18, Section 1

Policy

"The Department and the Union affirm their commitment to the policy of providing equal employment opportunities to all employees and to prohibit discrimination because of race, color, religion, sex (including sexual harassment), sexual orientation, national origin, age (40 years of age and over), or disabling condition."

Article 18, Section 1
**Article 18, Section 2**

**EEO Program at VA**

- The Department’s EEO program shall be designed to promote equal employment opportunity in every aspect of the Department’s personnel policy and practice in accordance with applicable law and government-wide regulations, to include but not be limited to, the following:
  - Providing reasonable accommodations for qualified disabled employees
  - Reviewing selection processes and staffing procedures, and taking corrective actions as needed
  - Redesigning jobs, where feasible and desirable
  - Making accommodations which are reasonable for religious needs
  - Preventing workplace and sexual harassment
  - Affirmative Employment Plan(s)

**Article 18, Section 3**

11. The Department shall provide reasonable accommodations, when appropriate, in as short a timeframe as possible. When possible, decisions on reasonable accommodations requests should be rendered within ________ days.

12. The Department is/is not required to provide the employee’s accommodation of choice.
Article 18, Section 3
Reasonable Accommodations

B: "The Department will offer reasonable accommodation ** to qualified individuals with known physical disabilities or mental impairments, or those who have a record of past impairment regardless of the type of appointment,** unless the Department can demonstrate that the accommodation would impose an undue hardship on the operation of the Department’s program."

C: ** "The Department shall process requests for reasonable accommodation and provide accommodations, when appropriate, in as short a timeframe as is reasonable. When possible, decisions regarding accommodations should be rendered within 30 calendar days of the date the request was received." **

Article 18, Section 3, paragraphs B & C

Group Discussion

Article 19: Fitness for Duty

Article 24 – Official Records

- Section 1, Official Records and Files
- Section 2, Access to Records
- Section 3, Outdated Records
- Section 4, Supervisory Notes
13. Which of the following are true in relation to official employee records?
   A. All personnel records are confidential.
   B. Records are to be known or viewed by officials only on a legitimate need to know basis.
   C. Records must be retained in a secure location.
   D. Employees shall be advised of the nature and purpose of their eOPF and its location.
   E. All of the above

14. Employees and/or their representative(s) designated in writing have:
   A. The right to examine personally identified records
   B. Access to the employee’s personal medical records maintained by the Department in most circumstances
   C. The right to prepare and enter a concise statement of disagreement
   D. The right to receive records within three working days of the request
   E. All of the above

Section 3: Outdated Records
- Official personnel records shall be purged per appropriate schedules.
- When the eOPF is created and the OPF is purged, any personal materials provided by the employee shall be returned.
- Timely removal of documents which have a time limit.
- Outdated material may not be used to support detrimental action.

Section 4: Supervisory Notes
- Unofficial files will not be kept at any level.
- Supervisory notes:
  - Cannot be circulated or reviewed
  - Must be secured to prevent disclosure
  - Are usually kept for 6 months
- Supervisory notes cannot be used to support any action detrimental to the employee until the employee receives a copy.
**Article 25 - Official Travel**

- The purpose of the article is to define the following in relation to official travel:
  - Management responsibilities
  - Union responsibilities
  - Employee rights and responsibilities

**Article 25, Section 1**

**Compensatory Time Off**

- A. Where it is necessary that travel be performed during non-duty hours, the employee will be paid overtime or may opt for compensatory time when such travel constitutes hours of work under 5 USC or the Fair Labor Standards Act, if applicable.

- **C.** When an employee performs official travel outside their normal working hours, but the travel does not constitute hours of work under 5 USC or the Fair Labor Standards Act, then the employee will be allowed to accrue compensatory time off for travel.

**Forfeiting Compensatory Time Off**

- **F.** Compensatory time off for travel is forfeited:
  - If not used by the end of the 26th pay period after the pay period during which it was earned
  - Upon voluntary transfer to another agency
  - Upon separation from the Federal Government

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2011 VA/AFGE Master Agreement Training
Article 25, Section 1
Official Travel

15. Official travel is “hours of work” if the travel is officially authorized:
   A. Within the days/hours of the employee’s regularly scheduled workweek or regularly scheduled OT
   B. Outside an employee’s regularly scheduled hours and:
      – Involves the performance of work while traveling or is incidental to it
      – Is carried out under arduous/unusual conditions, or
      – Results from an event that could not be scheduled or controlled
   C. A only
   D. A and B

16. When an employee performs official travel outside his/her normal working hours that does not constitute hours of work then the employee will be allowed to accrue compensatory time off for travel. True or False?

Article 25, Section 6
Transporting Documents with PII

“Employees accountable for transporting government documents containing personally identifiable information must adhere to established work rules affecting the handling of such documents.” **
Article 25, Section 9
Travel Savings Award Program

"It is the employee's option whether to participate in the Travel Savings Award Program. Each time the employee has saved the government two hundred dollars or more, the Department shall reimburse the employee half the savings, as expeditiously as possible after the employee properly documents the savings." **

Questions

What's Next?

Hours of Work and Compensation