

LABOR-MANAGEMENT RELATIONS

- 1. REASON FOR ISSUE:** To issue Department of Veterans Affairs (VA) policy regarding labor-management relations.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive contains Departmental policy applicable to all VA organizations concerning the Labor-Management Relations Program, both title 5 and title 38.
- 3. RESPONSIBLE OFFICE:** The Office of the Associate Deputy for Labor-Management Relations.
- 4. RELATED HANDBOOK:** VA Handbook 5023, "Labor-Management Relations."
- 5. RESCISSIONS:** Refer to the Transmittal Sheet for VA Directive 5001, "General Introduction and Administration."

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
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LABOR-MANAGEMENT RELATIONS

1. PURPOSE

a. This issue prescribes policies, principles, and procedures governing relationships with labor organizations in VA and applies to all categories of employees in VA. The provisions of this issue do not apply, however, to any labor organization or local of a labor organization comprised predominately of non-United States citizen employees located outside the United States.

b. Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization which represents other individuals to whom such provision applies; or which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.

2. POLICY

a. It is the policy of VA to recognize and deal with lawful labor organizations on matters of concern to the employees they represent, and to place primary reliance on informal settlement of any differences or disputes at the earliest stage possible by discussion between VA management and representatives of labor organizations.

b. The right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them safeguards the public interest; contributes to the effective conduct of public business; and facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment. The public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operation of the Government.

c. VA management shall carry out its duties in a manner consistent with the terms and spirit of human resources policies, principles and procedures that encourage the highest standard of employee performance and the most efficient accomplishment of VA operations.

d. A copy of this issue shall be available electronically.

e. Each labor organization that is granted exclusive recognition at the local level shall have electronic access to a complete set of human resources directives and handbooks.

f. Labor organizations holding exclusive recognition will automatically qualify for dues withholding by payroll deduction, without a service fee, for members in their bargaining units. Additionally, unions may qualify for dues withholding for employees in an appropriate unit where no union holds exclusive recognition upon certification by the Federal Labor Relations Authority (Authority) that 10 percent of the employees in the appropriate unit have membership in the labor organization.

3. RESPONSIBILITIES

a. The Office of Labor-Management Relations (LMR) is responsible for:

(1) Planning and formulating agency policies and procedures for the VA labor-management relations program.

(2) Acting as the liaison with the national headquarters of labor organizations and representing VA in national level negotiations and consultations, as appropriate, under consolidated unit recognitions or national consultation rights.

(3) Representing VA before the Authority and the Federal Service Impasses Panel (FSIP) on labor-management relations matters.

(4) Providing leadership in the establishment of a positive and effective labor-management relations program at all levels of the agency.

(5) Appraising the effectiveness of the VA labor-management relations program and making policy changes that may be required.

(6) Developing training aids to assist field facility management in the conduct of such programs.

b. General Counsel is responsible for:

(1) Furnishing legal advice and assistance in all matters arising under the VA labor-management relations program.

(2) Representing VA in formal administrative or judicial proceedings under the statute when legal representation by the General Counsel is in the interest of the Government.

c. Administration Heads, Deputy Assistant Secretaries, directors of staff offices and field facilities have the following responsibilities:

(1) Carrying out the labor-management relations program involving employees under their jurisdiction in conformance with the requirements of this directive and the statute.

(2) Taking such measures as necessary to ensure that the actions and demonstrated attitudes of management and supervisory officials under their jurisdiction are consistent with the provisions of this issue.

(3) Protecting employees in the exercise of their rights under the provisions of this directive and the statute.

(4) Ensuring that management and supervisors are properly trained and indoctrinated in this program area.

(5) Ensuring that employees are informed of their rights and obligations under the provisions of this directive and the statute, and that each employee is notified where a copy of this issue is available for reference or study.

d. The HRM Officer, or in Central Office the Director, Central Office Human Resources Service, is responsible for:

(1) Participating in consultations and negotiations between labor organizations and management officials.

(2) Furnishing management and supervisory officials technical advice, assistance, and interpretation of labor-management policies, regulations and negotiated agreements.

(3) Training management and supervisory officials in their responsibilities in the labor-management relations program.

(4) Acting as the liaison with representatives of local labor organizations.

(5) Acting for the field facility Director in developing and maintaining a sound program of effective labor-management relations.

e. Regional Counsel is responsible for:

(1) Furnishing advice to field facility directors in all legal matters arising under the VA labor-management relations program.

(2) Representing field facility management in formal proceedings under the statute when authorized by the General Counsel. Providing legal assistance and guidance in negotiations when requested by field facilities.

4. REFERENCES

a. 5 U.S.C., ch. 71.

b. 38 U.S.C. 7421 and 7422.

c. Legislative History of the Federal Service Labor-Management Relations Statute, Title VII of the Civil Service Reform Act of 1978, Committee Print No. 96-7.

5. DEFINITIONS

a. **Employee.** An individual employed by VA, including Veterans Canteen Service personnel, but does not include a supervisor, management official, or confidential employee for the purpose of exclusive recognition or National Consultation Rights.

b. **Supervisor.** An individual employed by VA having authority in the interest of VA to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not

merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term supervisor includes only those individuals who devote a preponderance of their employment time to exercising such authority.

c. **Management Official.** An individual employed by VA in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of VA.

d. **Confidential Employee.** An employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations.

e. **Professional Employee**

(1) An employee engaged in the performance of work:

(a) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(b) Requiring the consistent exercise of discretion and judgment in its performance;

(c) Which is predominately intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(d) Which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

(2) An employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (1)(a) above and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee as described above.

f. **VA Management.** The Secretary and all management officials, supervisors, and other representatives of management employed in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency.

g. **Labor Organization.** An entity comprised in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include--

(1) An organization which, by its constitution, by-laws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status or disability;

(2) An organization which advocates the overthrow of the constitutional form of government of the United States;

(3) An organization sponsored by an agency; and

(4) An organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike.

h. **Labor Organization Representative.** An individual who may or may not be a VA employee, specifically designated at any time by a labor organization to deal with management. This term, for purposes of this issue, is intended to cover the wide variety of titles used by different labor organizations to identify their officials such as officers, stewards, committee people, negotiators, etc.

i. **Authority.** The Federal Labor Relations Authority established by Title VII of the Civil Service Reform Act of 1978.

j. **Statute.** Federal Service Labor-Management Relations Statute contained in 5 U.S.C., ch. 71.