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AGONM TPR 711

STATE OF NEW MEXICO
OFFICE OF MILITARY AFFAIRS
Office of the Adjutant General
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AGONM TECHNICIAN PERSONNEL
REGULATION Number 711

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TECHNICIAN PERSONNEL (ARMY AND AIR)

LABOR MANAGEMENT RELATIONS IN THE NEW MEXICO NATIONAL GUARD

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ANNEX A - Representation Time Sheet

This regulation supersedes AGONM TPR 711, 1 November 1979

TECHNICIAN PERSONNEL (ARMY & AIR)

LABOR MANAGEMENT RELATIONS IN THE NEW MEXICO NATIONAL GUARD

1. Purpose. This regulation establishes policies and procedures applicable to labor-management relations within the New Mexico National Guard in order to promote effective, equitable, and uniform implementation of the policies, rights and responsibilities prescribed in Title VII, Public Law 95-454, Annex A.

2. General Policy and Responsibilities.

a. All commanders, management officials, and supervisors, both military and civilian, are expected to carry out the requirements of Title VII, Public Law 95-454.

b. Unions granted exclusive recognition have a right to negotiate an agreement and to be consulted on personnel policies, the personnel implications of management decisions, or other matters affecting conditions of employment. Depending upon the subject matter, these areas of consultation may involve any member of the Adjutant General or commander's staff or any managerial or supervisory level. It is essential therefore, that all levels of staff and line management receive a full orientation on the provisions of this regulation and that all members of the civilian work force be appraised of their rights and obligations under this regulation.

c. The Adjutant General has designated the Support Personnel Management Officer as the principal contact point for conducting business with the union, since such dealings will be concerned for the most part with personnel policies and working conditions. This designation does not relieve other management officials or supervisors of their responsibilities for carrying out the day-to-day dealings with the union.

d. Labor-management relations in the New Mexico National Guard shall be governed by the following basic policies and principles:

(1) Effective labor-management relations is a basic part of the responsibility of commanders, managers, supervisors (military and civilian), and labor officials at all levels, wherever there are employees subject to Title VII, P.L. 95-454.

(2) Authority on matters of personnel policy and practice and working conditions has been delegated to the maximum feasible extent, see AGONM TPR 250. Delegation will help to ensure meaningful employee participation as envisioned in Title VII, as well as to avoid escalation of problems which should be resolved at lower levels.

(3) Managers and supervisors must remain ~~natural~~ NEUTRAL and refrain from influencing or interfering with the free choice of employees in representation matters. When employees have chosen exclusive representation through procedures established under the order, managers and supervisors should take positive steps to establish cooperative and constructive relationships with the organization selected.

(4) Emphasis in dealing with recognized employee unions will be not only on the resolution of issues and problems which arise at the bargaining table and at the worksite, but also on the establishment of relationships and understandings that can help to preclude such problems.

(5) Labor unions certified as the exclusive representative of NMNG employees have a legitimate interest in matters affecting the terms and conditions of employment of personnel in the bargaining unit. Attention should be devoted to ensuring that information concerning such matters is shared with appropriate union representatives.

(6) The achievement of modern and efficient work practices and a commitment to high standards of performance are essential. Managers and supervisors must retain the ability to determine work methods, assign work, and make other decisions that are basic to the efficient management of the public enterprise and the accomplishment of this Department's national security mission.

(7) Labor-management relations activities will be given a high priority in the allocation of resources and manpower in order to assure adequate professional expertise and training of personnel in this area.

e. Subjects appropriate for consultation or negotiation with recognized labor organizations are conditions of employment (see Section 7103 (a) (14) Title VII at Annex A for definition of conditions of employment) affecting working conditions of unit employees which fall within the scope of authority of the responsible official at the level at which recognition was accorded. No obligation exists to consult or negotiate with labor organizations with respect to such areas of discretion and policy as the Management rights listed in Section 7106 Title VII (Annex A) and the contract. In dealings with labor organizations, NMNG management representatives shall ensure that the rights set forth in Section 7106 of Title VII are retained. Conferences or meetings may be conducted with labor organizations personally by the Adjutant General or the activity concerned or through duly designated officials.

f. Nothing in this regulation shall be considered to imply that the existence of established NGB or NMNG personnel policies or regulations on matters which are appropriate subjects for consultation or negotiation precludes recognized labor organizations from presenting suggested changes or modifications in those policies or regulations to the officials responsible for them.

g. Determination of appropriate units for labor organization and employee participation are listed in Section 7112 Title VII at Annex A.

h. Nothing in this regulation or any agreements entered into under its provisions shall restrict the New Mexico National Guard or its officials in situations of emergency from taking any actions necessary to carry out its mission.

3. RECOGNITION OF AND DEALINGS WITH LABOR ORGANIZATIONS.

a. Rights and Obligations:

(1) Local 1636, National Federation of Federal Employees has been granted exclusive recognition and has the rights and responsibilities conferred upon it by section 7114, Title VII.

(2) It is the mutual obligation of management and labor to meet at reasonable times and confer in good faith. Such obligation does not, however, compel either party to agree to any specific proposal advanced, or require the making of a concession on any specific matter.

b. **Negotiation of Agreements:**

(1) Local 1636 NFFE and the Adjutant General of New Mexico have negotiated an agreement. Copies of this agreement have been furnished to the union and all units and activities of the NMNG. Additional copies may be obtained from the Adjutant General, ATTN: NMAG-SP.

(2) The negotiated agreement has the full force and effect of regulations.

(3) Negotiation or renegotiation of agreements will be in accordance with Letter, NGB-TNL, dtd 29 Jan 74, Subject: Negotiating and Collective Bargaining Agreement (NOTAL)

c. **Grievance and Arbitration:** Scope and procedures have been negotiated and are contained in the Agreement.

d. **Negotiations:** Meeting with representatives of the labor organization does not in itself fulfill managements responsibility to negotiate. A bona fide effort to reach agreement must be made. Although management is not required to make concessions, a genuine effort to reach an agreement will be made during negotiations.

e. **Bargaining Objectives:** In developing its bargaining objectives, management will, in addition to identifying local problems suitable for resolution at the negotiating table, consider the bargaining goals listed below:

(1) Negotiate out of existing agreements provisions which have been difficult to administer or have hindered the effectiveness of operations.

(2) The negotiation of agreements which are workable, satisfactory to both parties, and reflects the intent of both management and the labor organization.

(3) Seek labor organization assistance and participation in improving communications and corrective problem areas such as in alcohol and drug control, equal employment opportunity and safety.

f. Solicitation of Membership and Support:

(1) Employees may not be prohibited from soliciting membership or support on behalf of or in opposition to a labor organization on activity premises during the nonwork time of the employees involved (i.e., both those engaged in solicitation and those being solicited), provided there is no interference with the work of the installation.

(2) Employees may not be prohibited from distributing literature on behalf of or in opposition to a labor organization on activity premises in nonwork areas and during the nonwork time of the employees involved (i.e., both those engaged in distribution and those receiving literature). provided there is no interference with the work of the activity. Literature posted or distributed within an activity must not violate any law, applicable regulations, provisions of a negotiated agreement, or the security of the activity, or contain libelous material. Organizations will be considered responsible for the contents of literature distributed by their representatives.

(3) Subject to normal security regulations and reasonable restrictions with regard to the frequency, duration, locations, and number of persons involved in such activities, labor organization representatives who are not employees of the activity may be permitted, upon request, at the discretion of the head of the activity, to distribute literature or to solicity membership or support on activity premises in nonwork areas and during the nonwork time of the employees involved. Permission may be withdrawn, however, with respect to any such activities which interfere with the work of the installation, or with respect to any representative who has engaged in conduct prejudicial to good order or discipline on activity premises. If permission is granted to one labor organization for non-employee representatives to engage in on station organizing or campaigning activities, the same privilege must be extended to any other requesting labor organization with equivalent status.

g. Use of Official Time:

(1) In the interest of efficient conduct of Government business and the economical use of Government time, and in order to draw a reasonable distinction between official and non-official activities, those activities concerned with organizing efforts and the internal management of labor organizations, including but not limited to the solicitation of memberships, collection of dues or other assessments, circulation of authorization cards or petitions, solicitation of signatures on dues withholding authorization forms or forms revoking dues withholding authorizations, campaigning for labor organization office, and distribution of literature, may be conducted only during the nonwork time of the employees involved. Similarly, when labor organizations schedule membership meetings, internal elections, workshops on negotiating skills or techniques, local, State or national conventions or similar events wholly or partially when the scheduled working hours of employees, any employees attending or participating in such events shall do so in an annual leave or leave without pay status.

(2) Employees who represent a labor organization shall be on official time when participating in the negotiation of a collective bargaining agreement in accordance with Section 7131, Title VII.

(3) An employee who is an official or representative of the labor organization may be excused without charge to leave in conjunction with attendance at a training session sponsored by that organization, provided the subject matter of such training is of mutual concern to the NMNG and the employee in his capacity as an organization representative and the NMNG interest will be served by the employee's attendance. Administrative excusal for this purpose should cover only such portions of a training session as meet the foregoing criteria and will normally not exceed eight (8) hours for any individual per twelve month period. Approval authority is the Adjutant General as stated in Article 11.2 of the Union-Management Agreement.

(4) Representational Function. "Representational function" means those activities undertaken by employees on behalf of other employees under statute regulation, executive order, or the terms of a collective bargaining agreement. It includes activities undertaken by specific, individual designation (such as the designation of a representative in a grievance action or an EEO complaint) as well as those activities authorized by a general, collective designation (such as the designation by a labor organization recognized as exclusive representative under Title VII). "Official Time" means all time granted employees by the agency to perform representational functions as defined herein while otherwise in a duty status without charge to leave or loss of pay.

(5) Guidelines . In authorizing such official time, supervisors and managers should satisfy themselves that employee use of official time for representational functions is reasonable and mutually beneficial to the agency and its employees. pursuant to the following criteria:

(a) Employees may use official time for representational functions upon the approval of his supervisor where such is authorized pursuant to, and consistent with, applicable statutes, regulations, and executive orders relating to complaints, grievances, appeals and other matters involving dealing with agency officials, including labor-management meetings consistent with Title VII, which are of mutual concern to management and its employee. This includes proceedings before the third party authorities set forth in the order.

(b) In all cases, the amount of official time to be authorized and the number of employees authorized to be on official time for representational functions should be determined by balancing the effective conduct of the government's business with the rights of employees to be represented in matters relating to their employment.

(c) In making this judgment concerning the use of official time, management should consider factors such as: the mission and manner of functioning of the activity, the dispersion of and accessibility to the employees, the number of employees, the supervisory structure and past experience concerning the amount and efficient use of authorized time to perform representational functions. Also relevant to this decision is managements judgment as to the impact on employee performance and efficiency, as well as on the efficient administration of government that will derive from employee representation in the decision-making process.

(d) These guidelines recognize that no fixed or standard statewide number of hours for representational functions can be set that would be universally and continuously appropriate, different missions and different mix of employees, and personnel problems. The amounts approved by managers and supervisors for any one or a group of employees should not exceed that needed to perform required and/or mutually beneficial functions. In no circumstances should the amount approved result in serious interference with the assigned responsibilities of the agency or activity or be unjustifiable in light of the benefits, including sound employee-management relations, to be derived.

(6) Recordkeeping.

(a) Supervisors and managers will maintain a log of official time used by individuals for representational functions. The log will contain as a minimum:

1 The employee's name

2 The employee represented (EEO representation excepted)

3 Date and time utilized

4 Type of representation, i.e., grievance, performance rating appeal, discrimination, contract negotiation, EEO consultation, etc.

(b) The log of official time will be kept in the supervisor's file folder maintained on the employee. The information on the log will be used in evaluating the reasonableness of the amounts of official time used in terms of its impact on agency operations and effective employee representation. A sample log is at Annex A.

4. ADMINISTRATION AND APPEALS. Title VII, Public Law 95-454 provides machinery for the administration of the Law and for the resolution of labor management disputes. This machinery is composed of the following:

a. Federal Labor Relations Authority, and

b. Federal Service Impasses Panel.

5. MANAGEMENT LABOR-RELATIONS TRAINING. See AGONM TPR 410.

6. RESOURCES. Budget estimates will be submitted by the SPMO to the USPFO annually to accomplish labor relations functions. The estimate will include but not necessarily be limited to:

a. Manager and supervisor labor relations training

b. Third party proceedings

c. Consultants

d. Arbitrators

e. Staff travel

f. Labor relations training material

g. Contract administration material

h. Labor-Management literature

7. INFORMATION REQUIRED.

a. From commanders, managers and supervisors. Feedback to the Adjutant General, ATTN; NMAG-SP, on matters involving administration of the agreement:

(1) Identify problem areas.

(2) Suggestions as to how these problems can be alleviated or eliminated, i.e., more information, training, etc.

(3) Supervisory views of personnel policies , procedures, and negotiation proposals.

(4) When any of the actions listed in section 19(b)(4) of Executive Order 11491 occur, i.e., strikes, picketing, slowdowns, etc.

b. From the Adjutant General to NGB. NGB-TNL will be notified by the Adjutant General or his designee when any of the following occur:

(1) An impasse during negotiations.

(2) The assistance of the Federal Mediation and Conciliation Service (FMCS) is requested in conjunction with an impasse during negotiations.

(3) The Adjutant General or the Labor Organization refers the impasse issue or issues to the Federal Service Impasse Panel (FSIP).

(4) When the labor organization invokes arbitration of a grievance.

(5) Immediately upon receipt of an Unfair Labor Practice charge.

(6) When any of the actions listed in Section 7116(b) of Title VII occur.

(7) Problem areas in contract negotiations.

FOR THE ADJUTANT GENERAL:

RUDY F. GONZALES
Support Personnel Management Officer

ANNEX A - Representation Time Sheet

DISTRIBUTION:
A, B, C, F, G, H, I
ANG - 50
NFFE Local 1636 - 25
MATES - 6
NMAG-SP - 20

OFFICIAL TIME FORM

Date:_____

1. Name and title of Union Officer/Steward:_____

2. Organization/Branch/Section:_____

3. Log:

Purpose of Official Time Used	Time Spent			Method Used (Tel. or Meeting	Name of Official Contacted	Supervisor's Initials
	Start	Stop	Total			

4. _____
Supervisor's Signature

ANNEX A