



United States Department of the Interior

OFFICE OF THE SECRETARY
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Memorandum

To: Human Capital Officers
Human Resource Directors

From: Jennifer A. Ackerman
Director, Office of Human Capital
Deputy Chief Human Capital Officer

Subject: Guidance on Requirements for Notices to Labor Unions

The Federal Service Labor-Management Relations Statute (Statute), 5 USC Chapter 71, sets forth notification requirements to both the national unions that have been accorded national consultation rights (NCR) with the Department of the Interior (DOI or Department) and local unions representing employees in the Department. Adhering to these requirements helps minimize grievances, unfair labor practice charges and other related appeals/complaints and promotes productive labor-management relationships that further the mission and goals of the Department. This memorandum serves as a reminder of our obligations in this regard.

Changes in Working Conditions

Management must, consistent with the Statute and any applicable collective bargaining agreements (CBA), notify the union(s), as applicable, of contemplated changes in **conditions of employment**. A condition of employment refers to physical, environmental, and operational features, including personnel policies, practices, and matters which affect bargaining unit employees' (BUEs) daily work life. If management deals directly with bargaining unit employees rather than with their union representative regarding such matters, this can result in grievances and/or unfair labor practice charges under the Statute.

When determining if notification to the union is required, four questions to ask are:

1. *Is the contemplated change or action covered by a CBA?*
2. *Does the change affect bargaining unit employees?*
3. *Does the change affect working conditions of bargaining unit employees?*
4. *Is the impact (or foreseeable impact) not insignificant (de minimis)?*

If the matter is not covered by a CBA but the answer to the other questions is "yes", union notification is required. However, the procedures for notifying unions of changes are often

provided for in the CBAs. As such, whenever a change of policy is anticipated or any messaging to the workforce is contemplated, please be sure to coordinate:

- Well in advance with your servicing human resources office (SHRO) and Bureau/Office labor relations officer (LRO) for bureau-level communications.
- At least two weeks in advance or more for Departmentwide changes, which must be sent to the Office of Human Capital, Workforce Relations Division (OHC-WRD).

OHC-WRD will coordinate with the bureau labor relations community of practice and with the NCR unions (as appropriate) on Departmentwide changes to ensure the Department fulfills applicable labor-management obligations, and your bureau SHRO and LRO will coordinate bureau/office level changes. OHC-WRD stands ready to assist bureaus/LROs as necessary.

Formal Discussions

Formal discussions are meetings with one or more representatives of the agency and one or more employees in a bargaining unit where the subject of the meeting concerns grievances, personnel practices/policies or other general conditions of employment affecting working conditions. The applicable union(s) must be invited and provided an opportunity to attend and participate in such discussions.

Examples of formal discussions include:

- Meetings that address a new human capital system (e.g., new performance management system)
- Major organizational changes
- Changes in dress code policy
- Changes in work schedules
- All-employee town halls or other events where the topic concerns personnel policies impacting working conditions

The Statute does not precisely define what constitutes a “formal” discussion; however, there is an abundance of case law to give meaning and application to this term -- and not all discussions are formal discussions under the Statute.

Indicators that a meeting is formal include:

- The number and level of management representatives in attendance;
- Whether the meeting is scheduled (suggests formal), impromptu (suggests informal)
- If a formal agenda will be used
- The meeting location (conference room suggests formal, hallway suggests informal)
- If attendance is mandatory
- How the meeting is conducted (i.e., are notes/meeting minutes taken)

Examples of discussions that are NOT formal discussions include those:

- Between supervisors and managers OR between supervisors and non-union employees
- Regarding work procedures, assignments, deadlines, etc.

- Establishing performance standards or counseling about performance issues

If you are in doubt as to whether a planned meeting is “formal”, please consult your local SHRO or LRO for bureau/office level matters. For Departmentwide meetings, the initiating office should endeavor to coordinate at least two weeks in advance of the desired discussion date with OHC-WRD to ensure the unions are properly notified, as appropriate.

Additional Notifications

Sharing information is largely driven by Statutory and CBA requirements. However, it is the practice of the Department, as encouraged by the Administration and the Office of Personnel Management (OPM), to promote and support collective bargaining. This includes promoting transparency by providing certain information to labor unions which may not be required by the Statute. As such, any planned all-employee emails or correspondence, town halls, etc., regardless of subject should be provided well in advance of issuance to the bureau/office LRO for bureau/office level matters and to OHC-WRD for Department-level matters, for a determination on whether it is appropriate to share with the unions.

Your cooperation in this matter is appreciated. Please share this information broadly to ensure a common understanding of expectations. Any Department employee or employee representative seeking further information concerning this guidance may contact their Servicing Human Resource Office (SHRO). SHROs may contact the Department’s Office of Human Capital concerning questions related to this guidance.