

APPENDIX A

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
MANPOWER AND RESERVE AFFAIRS
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October 7, 1996

MEMORANDUM FOR LABOR RELATIONS SPECIALISTS AT MACOMS,
OPERATING CIVILIAN PERSONNEL OFFICES,
CIVILIAN PERSONNEL ADVISORY CENTERS,
INDEPENDENT REPORTING ACTIVITIES AND
CIVILIAN PERSONNEL OPERATIONS CENTERS

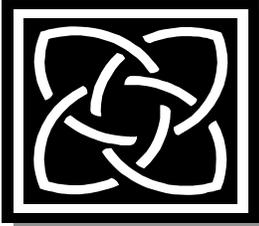
SUBJECT: Cancellation of Army's Labor Relations
Regulation--Labor Relations Bulletin #395

The attached bulletin discusses the cancellation of Army Regulation 690-700, Chapter 711, Labor-Management Relations. Also addressed are the requirements contained in the DoD Civilian Personnel Manual (CPM), 1400.25-M. Subchapter 711, Labor-Management Relations.

Please share this bulletin with your civilian personnel officer, your labor attorney and all other interested management officials.

////////signed////////
Elizabeth B. Throckmorton
Chief, Policy and Program
Development Division

Attachment



Labor Relations Bulletin

No. 395

October 7, 1996

Cancellation of Army's Labor Relations Regulation

With the publication of the Department of Defense's Civilian Personnel Manual (CPM), 1400.25-M, Subchapter 711, Labor-Management Relations, together with our desire to reduce regulatory restrictions, this office has canceled Army Regulation (AR) 690-700, Chapter 711, Labor-Management Relations.

Following is a list of previous Army requirements contained in AR 690-700.711 that have been eliminated with the cancellation of the AR. (Only those sections with no corresponding DoD requirement are identified.) Also included is general guidance to be considered before locally terminating these practices.

* **Activities will record and maintain data on the use of official time.** (Para 3-1c.) While this is no longer a requirement, activities should give careful consideration to maintaining this practice. While the use of official time may not be a current problem at your installation, this situation can change overnight. For example, a change in union leadership where the new union official's job assignment requires greater time on the job. There may also be a decrease in unit strength, grievances and complaints. Under these or other conditions, management may seek to curtail the amount of official time. Without a benchmark level of usage, though, negotiating a reduction of official time may be impossible.

*** Chief negotiator of management's team must have authority to commit command to binding agreement.** (Para 3-3b(2).) While no longer a regulatory requirement, it remains a Statutory one-- see 5 USC 7114(b)(2).

*** Activities must consult with MACOMs before filing petition to decertify exclusive representatives.** (Para 4-1.) While no longer an HQDA imposed requirement, it's still a good idea and your MACOM may continue to want to be kept informed.

*** Negotiation Impasses.** (Para 4-3c and d.) The AR required installations to provide their MACOMs copies of all referrals to the Panel and to consult with them prior to referring negotiation impasses to arbitration. MACOMs will have to decide whether this information is still needed from their installations. Notwithstanding the above, this office continues to discourage voluntary use of arbitration to resolve impasses because of the limited avenues of appeal. Should management want to challenge a decision of an interest arbitrator, the avenue of appeal is dictated by the method used in seeking the arbitration. If the Panel assigns an arbitrator to hear an impasse in response to a joint management-union request, the only avenue of appeal is to file an exception to the arbitrator's award. If the use of an arbitrator is directed by the Panel, a negotiability appeal would be filed to challenge the arbitrator's award. Negotiability appeals ultimately provide for judicial review while arbitration exceptions do not.

NOTE: It is still DoD policy that Army activities notify HQDA when going to the Panel on permissive topics.

*** ULPs.** (Para 4-5a(3)&(5).) Installations were required to notify their MACOM upon receipt of a ULP complaint. Further, MACOMs needed to be consulted with prior to an activity filing a ULP charge against a union. This is no longer an HQDA regulatory requirement; however, your MACOM may want to continue this practice.

*** Planning for possible job actions.** (Appendix B.) This provision required a job action contingency plan be maintained. That is no longer a regulatory requirement. However, we believe it is still good program management to keep an up to date job action contingency plan ready and available. Installations should already have a plan; it wouldn't be too much of a burden to keep it up to date. If there ever is a job action by the employees and/or their unions, the command will look towards the labor relations office for guidance and strategy. It would be terribly difficult to develop a plan at that time. Activities may also want to keep a copy of Appendix B in their files since it contains guidance on preventing job actions and for dealing with them should they occur.

Activities should keep in mind that while the above requirements are no longer regulated by Army, MACOMs may still want to maintain their past practices.

DoD Regulatory Requirements

Other matters no longer regulated by Headquarters, Department of the Army but covered by the DoD regulation are:

*** An overall labor relations policy.** The DoD policy is:

. . . to establish labor management relationships focused on supporting and enhancing the Department's national security mission and creating and maintaining a high performance workplace which delivers the highest quality products and services to the American public at the lowest possible cost. Such relationships should be committed to pursuing solutions that promote increased quality and productivity, customer service, mission accomplishment, efficiency, quality of work life, employee empowerment, organizational performance, and military readiness. DoD activities should seek to use consensual means of resolving disputes that may arise in a labor-management relationship.

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*** Agreement review.** Activities will:

- Provide CPMS (which is the parent organization of the Field Advisory Service) one copy of agreements once negotiations are completed, but prior to execution.

- Forward one copy of executed agreement to CPMS indicating date agreement executed, name and address of union representative and name and phone number of agency POC.

- Upon publication, send CPMS two copies of agreement with completed OPM Form 913B. Activities will also provide copy of agreement to HQDA. (CPMS will provide OPM copies.)

- Provide HQDA and CPMS copies of OPM Form 913-B concerning changes in agreement expiration dates. (CPMS will provide OPM copies.)

*** Exclusions from coverage.** Requests to exclude organizational entities from coverage under the Statute or to suspend any of its provisions should be sent by activities through command channels to the Deputy Assistant Secretary of Defense (Civilian Personnel Policy).

*** Representation cases.**

- Proposed units which encompass employees in two or more DoD components or employees in different personnel systems are generally not appropriate. If a union petitions for such a unit, a copy of the petition, and a copy of the subsequent Regional Director's decision, will be sent by activities to HQDA and CPMS. Any agency application for review of such a decision will be coordinated with HQDA and CPMS.

- Copies of FLRA Regional Director decisions and orders on new or revised units, as well as information on new, revised or terminated units (using OPM Form 913-B), will be sent by activities to CPMS and HQDA.

*** Unfair labor practices.** Activities will:

- Provide HQDA and CPMS copies of all exceptions filed to ALJ decisions, along with the decisions and any subsequently filed documents.

- Notify HQDA and CPMS when employees engage in strikes, work stoppages, slowdowns or picketing which interfere with an agency's operations.

*** Negotiability issues.**

- After receiving a written request for a negotiability determination, activities will coordinate with HQDA and CPMS prior to issuing a written response.

- Activities will provide a written declaration of nonnegotiability to the union within 10 days of receipt of its request.

- HQDA or CPMS will prepare the agency's response to a negotiability appeal

*** Review of arbitration awards (except those involving performance-based or adverse actions).** Activities will:

- Immediately contact HQDA and CPMS if they believe an exception should be filed to an arbitrator's award.

- Forward a copy of the award, the grievance file, the address of the arbitrator, and the name and address of the union representative in the proceeding to HQDA and CPMS where there appears to be a basis for an exception. The exception will be filed by HQDA or CPMS.

- Furnish HQDA and CPMS a copy of the exception, the award and the activity's position on the exception within 5 calendar days of receipt of a union-filed exception. HQDA or CPMS will file the opposition.

* **General statements of policy.** Activities seeking a general statement of policy from the FLRA will elevate the request through command channels to OSD.

* **Arbitration awards relating to matters described in 5 USC 7121(f) (performance-based and adverse actions.)**

- Management representatives in these cases should instruct the arbitrator at the hearing to prepare an administrative record and maintain it for at least 45 days from the date of the award.

- Activities must immediately notify Headquarters, Department of the Army, Office of The Judge Advocate General, Labor and Employment Law Division (hereinafter referred to as DAJA-LE), if they want to seek review of the arbitrator's award.

- Activities will submit requests for judicial review through command legal channels to the Director of OPM. A copy of the request will be sent to CPMS.

* **Judicial review.** Activities will:

- Send requests for judicial review of Authority decisions or requests to intervene in judicial proceedings through legal channels to the Office of the Deputy General Counsel, Personnel and Health Policy (ODGC (P&HP)), DoD. Immediately notify DAJA-LE of the request.

- Notify the DAJA-LE and ODGC (P&HP), through legal channels, upon learning that a union has initiated court action in a matter arising out of its relationship with the activity.

* **Reports.** Activities will provide two copies of arbitration awards to OPM.

Attachments

Attached is a copy of the DoD Civilian Personnel Manual 1400.25-M, Subchapter 711, Labor-Management Relations. Also attached are checklists we developed from the DoD regulation for the various labor relations actions addressed therein. If they're helpful, that's great. If not, throw them out.

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