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Law

**REPRESENTATIONAL AND
ORGANIZATIONAL ACTIVITIES OF AIR
FORCE PERSONNEL**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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OPR: HQ USAF/JAG (Lt Col Carole Cheatham)
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This instruction implements AFPD 51-9, *Civil Law for Individuals*, by providing guidance and procedures for dealing with individuals and organizations whose objective is to represent or organize military members of the Air Force for the purpose of negotiation or collective bargaining over terms or conditions of military service. It describes both prohibited and permissible conduct of military members and civilian employees with respect to representational and organizational activity. Failure to observe the specific prohibitions and mandatory provisions in paragraphs 2.1. through 2.6 of this instruction by military personnel is a violation of Article 92 of the Uniform Code of Military Justice (UCMJ) and may result in prosecution or administrative action. Violations by civilian employees may result in administrative disciplinary action without regard to otherwise applicable criminal or civil sanctions for violations of related laws. This instruction also implements DoD Directive 1354.1, *DoD Policy on Organizations that Seek to Represent or Organize Members of the Armed Forces in Negotiation or Collective Bargaining*, 25 November 1980.

SUMMARY OF REVISIONS

This revision aligns the instruction with AFPD 51-9.

1. Unionization of Military Personnel. The traditional union functions of collective or concerted actions would impair the control of Air Force commanders over military personnel and thereby threaten the security of the United States. Unionization of the Air Force would be incompatible with the military chain of command because it would undermine the role, authority, and position of the commander and impair the morale and readiness of the Air Force. Air Force commanders could not maintain readiness, be responsive to contingency plans, or accomplish their missions if required to bargain over their orders, consult over decisions, or be subject to collective actions of any sort.

1.1. Any individual or organization which seeks to intrude on the relationship between commanders and military members of the Air Force in matters relating to mission accomplishment or terms or con-

ditions of military service presents a clear danger to discipline, loyalty, and obedience to lawful orders of command. Such interference is not permitted.

1.2. The processes of conventional collective bargaining and labor-management negotiation cannot apply to the relationships between members of the Air Force and their military and civilian superiors. Strikes, slowdowns, picketing, and other traditional forms of job action have no place in the Air Force.

2. Prohibited Activities:

2.1. General Prohibitions. Military members and civilian employees of the Air Force will not attempt to engage in or solicit the commission of any act prohibited by this instruction, nor will they conspire with or aid and abet any person or organization in the commission of any act prohibited by this instruction.

2.2. Negotiation or Collective Bargaining:

2.2.1. Air Force commanders and supervisors will not engage in negotiation or collective bargaining on behalf of the United States concerning terms or conditions of military service of Air Force members with any person who represents or purports to represent Air Force members.

2.2.2. No person on an Air Force installation and no member of the Air Force may negotiate or bargain, or attempt through any coercive act to negotiate or bargain, with any Air Force member or civilian employee, on behalf of Air Force members, concerning the terms or conditions of service of such members.

2.3. Strikes and Other Concerted Activities:

2.3.1. No person on a military installation and no Air Force member may organize or attempt to organize, or participate in, any strike, picket, march, demonstration, or other similar form of concerted action involving Air Force members, that is directed against the Government of the United States and that is intended to induce any civilian employee or Air Force member to:

- Negotiate or bargain with any person concerning the terms or conditions of service of any Air Force member.
- Recognize any military labor organization as a representative of individual Air Force members in connection with a member's complaint or grievance arising out of the terms or conditions of the member's service.
- Make any change with respect to the terms or conditions of service of individual Air Force members.

2.4. Improper Use of a Military Installation:

2.4.1. No person may use any military installation to meet, march, picket, demonstrate or for other similar activity for the purpose of engaging in any activity prohibited by this instruction.

2.4.2. No civilian employee or Air Force member may permit or authorize the use of any military installation for any meeting, march, picketing, demonstration, or other similar activity which is for the purpose of engaging in any activity prohibited by this instruction.

2.5. Prohibited Recruitment Efforts:

2.5.1. No person will conduct or attempt to conduct a demonstration, meeting, protest, march, or engage or attempt to engage in speechmaking, picketing, leafleting, or other similar activity on an

Air Force installation for the purpose of forming, recruiting military members for, or soliciting money or services for any organization that:

- Engages or is substantially likely to engage in any activity prohibited by this instruction.
- Proposes or holds itself out as proposing to engage in negotiation or collective bargaining on behalf of Air Force members.
- Proposes, or holds itself out as proposing, to represent Air Force members to the military chain of command with respect to the terms or conditions of military service when such representation would interfere with the military chain of command.
- Solicits or aids and abets a violation of this instruction by an Air Force member.

2.5.2. No person will engage in any activity, including, but not limited to, individual contacts or the posting for public display of any poster, handbill, or other writing, on any part of an Air Force installation, if the activity or the material displayed constitutes or includes an invitation to collectively engage in an activity prohibited by this instruction.

2.6. Unlawful Membership or Enrollment in Certain Organizations:

2.6.1. It is unlawful for an Air Force member, knowing of the activities or objectives of a military labor organization, to join or maintain membership therein, or to attempt to enroll or enroll any other member of the Armed Forces as a member of such organization.

2.6.2. No person on a military installation may enroll in a military labor organization any member of the Armed Forces, or solicit or accept dues or fees for such an organization from any member of the Armed Forces.

3. Permissible Activities:

3.1. Civilian employees may join or be a member of any organization that engages in representational activities with respect to terms or conditions of civilian employment, provided no other restrictions apply.

3.2. Military members may:

- Present complaints or grievances over terms or conditions of military service through established military channels.
- Petition Congress for redress of grievance or communicate with any member of Congress.
- Seek or receive information or counseling from any source.
- Be represented by qualified counsel, whether or not retained by an organization on his or her behalf, in any judicial or administrative proceeding with respect to which there is a right to counsel of choice.
- Join or be a member of any organization which engages in representational activities with respect to terms or conditions of off-duty employment.
- Take such other administrative action to seek such administrative or judicial relief as is authorized by applicable laws and regulations.

3.3. Commanders or supervisors will give due consideration to the views of military members presented individually or as a result of participation on command-sponsored or authorized advisory coun-

cils, committees, or organizations for the purpose of improving conditions or communications at the Air Force installation involved.

4. Responsibilities:

4.1. HQ USAF/JAG and HQ USAF/DPX are the primary Air Staff contacts for matters related to this instruction and will be information addressees on all related correspondence and messages.

4.2. Military members and civilian employees must comply with 10 U.S.C. 976 and with this instruction. While the Air Force will make every effort to inform its members and employees which organizations are military labor organizations, the failure of the Air Force to inform its members that a particular organization is a military labor organization will not shield those members from liability under 10 U.S.C. 976 or under this instruction.

4.3. Air Force officers and noncommissioned officers, especially unit commanders, senior enlisted advisors and first sergeants, will ensure that Air Force personnel are aware of the requirements, rights, and responsibilities expressed in this instruction, and all personnel will assist installation commanders in identifying incidents or conduct prohibited by this instruction.

4.4. Installation Commanders:

4.4.1. Enforce the prohibitions of paragraphs **2.1.** through 2.6.2 of this instruction.

4.4.2. Make administrative determinations whether an organization is a military labor organization on a case-by-case basis. See the guidelines in **Attachment 3.** Coordinate with the servicing staff judge advocate as appropriate.

4.4.3. Post notices when an organization has been determined to be a military labor organization which clearly state:

- That the identified organization poses a clear danger to discipline, loyalty, or obedience to lawful orders, and
- That knowing, active membership in that organization by a military member with the intent to promote conduct prohibited by this instruction is not permitted.

4.4.4. Report through intermediate commanders to their major commander, with information copies to HQ USAF/JAG and HQ USAF/DPX, all incidents concerning requests for permission or attempts to engage in activities prohibited by this instruction in the Military Union Incident Report, RCS: HAF-JAG/(AR). Report to HQ USAF by electronic message. See format at **Attachment 2.** This report is designated emergency status code C-3. Submit data requirements as prescribed, but they may be delayed to allow the submission of higher precedence reports. Submit by non-electronic means if possible. Discontinue reporting during MINIMIZE.

4.5. Intermediate commanders or higher authority provide guidance to installation commanders as appropriate.

5. Situational Guidance. Guidance for dealing with activities prohibited by this instruction is in **Table 1.** This guidance is for example only and does not override the judgment of individual commanders or the advice of their staff judge advocates.

Table 1. Situational Guidance for Commanders.

R U L E	A	B	C	D
	If	and	the installation commander	and
1	an individual or organization claims to represent military members of the Air Force	the purpose is for negotiation or collective bargaining over terms or conditions of military service	advises the individual or organization that he or she is prohibited from negotiating or collectively bargaining over terms or conditions of military service	reports the incident
2	an individual or organization requests permission to negotiate or collectively bargain on behalf of military members			denies the request and reports the incident
3	an individual or organization attempts to negotiate or collectively bargain on behalf of military members of the Air Force			reports the incident
4	an organization that claims to represent military members of the Air Force threatens a strike, slowdown, work stoppage or other collective job-related action, or picketing		advises the organization and all military personnel that they are prohibited from engaging in strikes, slowdowns, work stoppages, or other collective job-related actions, or picketing	reports the incident
5	an organization that claims to represent military members of the Air Force engages in a strike, slowdown, work stoppage or other collective job-related action, or picket	the organization and military members have been advised that such activity by military personnel is prohibited	takes necessary action to return to normal operation	takes disciplinary action, when appropriate, against military members of the Air Force who engaged in prohibited activity, and reports incident

6	an individual or organization pickets for the purpose of causing or coercing military members of the Air Force to engage in a strike, slowdown, work stoppage or other collective job-related action		takes necessary action to stop such activity on base	reports the incident
7	an individual or organization requests permission to conduct a demonstration, meeting or protest, or engage in speechmaking picketing or leafleting, or other such activity	the purpose is to solicit military members of the Air Force to join an organization that participates, or is substantially likely to participate, in negotiation or collective bargaining, strikes or other concerted actions	denies the individual or organization access to the base and/or denies permission to conduct such activities	reports the incident
8	(same)	the organization proposes or holds itself out as proposing to engage in negotiation or collective bargaining on behalf of military members of the Air Force		
9	an individual or organization attempts to recruit members of the Air Force for any military labor organization	permission has not been requested	directs individuals or organizations to cease and desist and removes violators from the base	reports the incident
10	(same)	permission was previously requested, but denied		takes disciplinary action, when appropriate, and reports incident

11	an individual or organization conducts recruiting of military personnel for any organization and the method is by such techniques as individual contacts or posting of any poster, handbill or other writing for public display	such contact or posting constitutes or includes an invitation to engage in negotiation or collective bargaining, or a strike or other concerted action	denies access to the base or removes violators and prohibits further contact, posting or distribution of such material	reports incident
12	an individual or organization attempts on-base distribution of literature soliciting membership or promoting an organization which purports or proposes to represent military members in negotiation or collective bargaining	permission has not been requested	halts distribution and reviews the literature to determine whether it constitutes a clear danger to discipline, loyalty or morale IAW AFI 51-903	if so, reports incident
13	(same)	the commander decides the material does not constitute a clear danger to discipline, loyalty or morale	permits distribution	
14	(same)	the commander decides the material does constitute a clear danger to discipline, loyalty or morale	prohibits further distribution and advises distributor to cease and desist	reports the incident
15	(same)	permission to distribute was previously denied	halts further distribution, confiscates available literature, and removes violators from the base	reports the incident

16	an individual or organization distributes literature soliciting membership or promoting an organization which purports or proposes to represent military members in negotiation or collective bargaining	distribution is through the US mail	takes no action	
17	a military member asks about the legality of joining a union or other organization		advises member active membership is prohibited in organizations that violate AFI 51-906 when the member knows the organization engages in prohibited conduct and the member intends to promote such conduct	further advises member that it is permissible to belong to an organization which engages in representational activities with respect to terms or conditions of off-duty employment
18	a military member joins a labor organization for representation not related to off-duty employment		takes disciplinary or administrative action, when appropriate	reports the incident
19	a military member already belongs to a labor organization for representation not related to off-duty employment		takes disciplinary or administrative action when appropriate	reports the incident

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The Judge Advocate General

Attachment 1

GLOSSARY OF TERMS

Terms

Aid and Abet—Means to be present during, or have knowledge of, the commission of any act prohibited by this instruction and to assist, command, counsel, or otherwise encourage such an act.

Air Force Installation—Includes bases, stations, sites, aircraft, other facilities where Air Force personnel are assigned, and other property controlled by the Department of the Air Force.

Civilian Employee—An employee as defined in 5 U.S.C. 2105.

Collective Job-Related Action—Any activity by two or more persons that is intended to and does obstruct or interfere with the performance of a military duty assignment.

Conspire—To join or agree with one or more persons to commit an act prohibited by this instruction.

Installation Commander—The officer so identified by administrative order or command directive and as such is responsible for duties assigned to the "Installation Commander" by United States statutes and Air Force directives.

Military Member—Includes a member of the Armed Forces who is serving on active duty or a member of a reserve component while performing inactive duty training.

Negotiation or Collective Bargaining—A process whereby a commander or supervisor, military or civilian, acting on behalf of the United States, engages in discussions with a military member or members of the Air Force (purporting to represent such members), or with an individual group, organization, or association purporting to represent such members, for the purpose of resolving bilaterally, terms or conditions of military service.

Solicit—To use words or any other means to request, urge, advise, counsel, tempt, or command another to commit any act prohibited by this instruction.

Terms or Conditions of Military Service—Terms or conditions of military compensation or duty, including, but not limited to, wages, rates of pay, duty hours, assignments, grievances, or disputes.

MILITARY LABOR ORGANIZATION—Any organization that engages in or attempts to engage in:

- Negotiating or bargaining with any civilian employee or Air Force member, on behalf of Air Force members, concerning the terms or conditions of military service of such members.
- Representing individual Air Force members before any civilian employee or any Air Force member, in connection with any grievance or complaint of any such represented member arising out of the terms or conditions of that member's military service.
- Striking, picketing, marching, demonstrating, or any other similar form of concerted action directed against the Government of the United States and which is intended to induce any civilian employee, or any Air Force member to:
 - Negotiate or bargain with any person concerning the terms or conditions of military service of any Air Force member.

- Recognize any organization as a representative of individual Air Force members in connection with complaints and grievances of such members arising out of the terms or conditions of such members' military service.
- Make any change with respect to the terms or conditions of military service of individual Air Force members.

Attachment 2

REPORTING FORMAT

PRIORITY MESSAGE

TO: INTERMEDIATE COMMANDERS AND MAJCOM COMMANDER

INFO: HQ USAF/DPX/JAG

SUBJECT: MILITARY UNION INCIDENT (RCS: HAF-JAG (AR) 9454)

A. NAME OF INSTALLATION

B. TYPE OF INCIDENT (REQUEST OR ATTEMPT FOR NEGOTIATION OR COLLECTIVE BARGAINING, STRIKE OR OTHER CONCERTED ACTION, SOLICITATION OR REQUEST FOR RECRUITMENT, DISTRIBUTION OF LITERATURE, ACTIVE MEMBERSHIP, OR OTHER PROHIBITED ACTIVITY.)

C. NAME(S) OF INDIVIDUAL(S) OR ORGANIZATION

D. NARRATIVE STATEMENT OF INCIDENT

E. BRIEF SUMMARY OF CONSTITUTION, BYLAWS, STATEMENT OF PURPOSE SUBMITTED BY THE INDIVIDUAL OR ORGANIZATION, OR OTHER INFORMATION AND THE SOURCE.

F. SUMMARY OF COMMANDER'S ACTION

NOTE: DURING PERIODS WHEN MINIMIZE IS IMPOSED, COMMANDERS WILL CONSIDER THE SEVERITY OF THE ACTIVITY BEFORE APPROVING ELECTRONIC TRANSMISSION.

Attachment 3

GUIDELINES FOR MAKING ADMINISTRATIVE DETERMINATIONS

1. To determine whether an organization is a military labor organization, whether a person is a member of a military labor organization, or whether such person or organization is in violation of any provision of this regulation, consider the history and operation of the organization (including its constitution and bylaws, if any) and the person. Consider evidence of conduct constituting a prohibited act.
2. To determine whether the commission of a prohibited act by a person can be imputed to the organization, consider factors such as the frequency of such act; the position in the organization of persons committing the act; whether the commission of such act was known by the leadership of the organization; and whether the commission of the act was condemned or disavowed by the leadership of the organization.
3. Gather any information about persons and organizations not affiliated with the Department of Defense needed to make the determinations required by this regulation in strict compliance with the provisions of DoDD 5200.27 and AFR 124-13, both entitled *Acquisition of Information Concerning Persons and Organizations not Affiliated with the DoD*. Counterintelligence or security investigative personnel shall not acquire this information. The organization itself shall be considered a primary source of information.