

CHAPTER SIXTEEN



Unions

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By Michael B. Filler

Many public employees throughout the United States are represented by unions. At the federal government level, unions are legally recognized entities that have been elected as the “exclusive” representative of employees within a defined “bargaining unit” that is certified by the Federal Labor Relations Authority. As a result, federal sector unions have a statutory right to negotiate over personnel policies, practices, and conditions of employment, and to provide representation in connection with disciplinary matters and other workplace issues. Organized labor also seeks to influence Congress and the White House over pay and benefits, as neither is by law within the scope of bargaining at the agency level (except for certain agencies exempt from pay provisions under Title V of the U.S. Code).

Where to Begin?

One of the essential briefings you should receive in preparation for your new position is an overview on the state of your agency’s labor-management relationship. In addition, building a positive relationship with elected union officials and representatives responsible for employees within your agency or department should be high on your “to-do” list.

Within your first two weeks on the job, you should schedule meetings with the appropriate president of the international union with representational rights for your employees (usually headquartered in Washington, D.C.), as well as the top elected officer(s) of that union’s local affiliate(s) or chapter(s). It is not uncommon to have many local affiliates/chapters around the country, so the frequency and manner of your interaction with them must be taken into consideration.

Don’t be surprised if you find yourself dealing with several different international unions. Given the size of federal departments, this happens frequently. Many of those unions also hold membership in a larger labor federation (e.g., the AFL-CIO or Change to Win), while others choose to remain independent. Moreover, some unions represent solely public employees, but most also have members employed in the private sector.

While each union has a distinct constitution, governance structure, and manner of operating, from time-to-time they may coordinate activities as part of a labor coalition. This is especially the case when it comes to political and legislative issues, when interests align and there is a commitment to act together on a special project, a campaign, or on an ongoing basis.

What Have I Inherited?

Understanding workforce issues and departmental climate indicators, like the results of the government-wide annual Federal Employee Viewpoint Surveys, will provide you a useful scorecard on where your agency stands. As previously mentioned, discussions with labor leaders within your agency will also shed much light on the relationship, including where progress has been made and where personal/institutional barriers to success exist.

Early on in your tenure, you should set the tone of the labor-management relationship. It will take time, honesty, and commitment. The personal investment you make, and how it is perceived by managers, employees, and union representatives alike, will establish a pathway marked by collaboration or varying degrees of ongoing conflict. More importantly, it will send a message of how you truly view the employees within your organization—i.e., as a valued workforce doing its best to meet the agency's mission or one comprised of overpaid, uncaring bureaucrats.

What Is an Effective Way Forward?

President Obama issued Executive Order 13522 in 2009, which directed the head of each executive department or agency that is subject to the Federal Service Labor-Management Relations Act to establish labor-management forums to improve the delivery of government services. In seeking to "... establish a cooperative and productive form of labor-management relations throughout the executive branch..." the executive order also called for creating a National Council on Federal Labor-Management Relations. Among its responsibilities and functions, the Council was required to develop measurements and metrics for evaluating department and agency labor-management forums. Further, the Council was to recommend "...innovative ways to improve [the] delivery of services and products to the public while cutting costs and advancing employee interests."

You should review published information on the Council's website (www.lmrcouncil.gov) to gain a fuller understanding of Executive Order 13522, and general guidance developed by the Council, in an effort to improve the productivity and effectiveness of your agency/department.

Pre-Decisional Involvement. The Council is co-chaired by the Director of the Office of Personnel Management and the Deputy Director for Management of the Office of Management and Budget. In 2011, the co-chairs issued a joint memorandum to the heads of executive departments and agencies on the importance of pre-decisional involvement (PDI) with unions. As provided for in Executive Order 13522, agencies are required to allow for pre-decisional involvement with unions in all workplace matters to the fullest extent practicable. This includes sharing information with union representatives and

resolving issues prior to making final decisions on, or implementing changes to, personnel policies, practices, or conditions of employment.

It is important to understand that PDI does not replace an agency's bargaining obligation with the union; rather, it is predicated on the concept that ongoing interaction with the union can help to operationalize the labor-management partnership as envisioned by Executive Order 13522 and, thereby, result in more informed (and presumably better) management decisions by allowing for and considering employees' input via their union. One example explained in the next section is the annual budget process, where unions should be solicited for input.

Handling Confidential Information Under PDI. Budget-related discussions can involve disclosing confidential or sensitive information. The Council has issued guidance on how to satisfy the executive order without acting in a manner inconsistent with OMB Circular A-11 (which, in part, prohibits sharing certain information during an agency's budget development phase). One option is to seek your labor representatives' concurrence to sign written confidentiality agreements to facilitate budget discussions involving information that normally would not be made available. It should be noted, however, that unions can provide input on:

- High-level goals and strategies when the budget is being developed
- Implementation plans while Congress is considering the budget
- The use of funds once the department/agency's appropriation becomes law

Employee Engagement. In early 2014, the Council and the Chief Human Capital Officers Council (CHCO) collaborated to address the topic of employee engagement. The focus was to identify promising practices, barriers to success, and ways to measure and reward progress. By definition, employee engagement consists of emotional, cognitive, and behavioral components, which are distinct from job satisfaction. Greater employee engagement improves employee productivity and customer service, while reducing turnover and workplace accidents.

You must set the right tone and communicate clear organizational values and expectations with respect to employee engagement. A close review of data from the annual Employees Viewpoint Survey will provide useful information on a number of key indicators that reflects the degree to which your department/agency has a fully engaged workplace. Developing a plan of action is essential to achieving progress in this area.

Metrics. Executive Order 13522 makes specific reference to using measures to track progress. The metrics should be practical and easily understood in order to turn data into action. In its guidance, the Council identified three areas where labor-management forums can use metrics for ongoing evaluation:

- An agency's ability to accomplish its mission and deliver high quality products, services, and protection to the public

- The quality of employee work life
- The labor-management relations climate

You must ensure that your labor-management forum has periodic substantive discussions about these areas and submits a timely annual report to the Council, which is the result of a PDI-based consensus between the parties.

Employee Performance Management. The Council worked with the CHCO Council to issue a report entitled “Getting in GEAR for Employee Performance Management” to address human performance problems found in many agencies. The acronym “GEAR” stands for Goals-Engagement-Accountability-Results, and serves as a roadmap “...to create high-performing organizations [within the federal government] that are aligned, accountable, and focused on results...” The Goals of GEAR, as contained in the report, include:

- Articulating a high performance culture within each agency
- Aligning individual employee performance with organizational performance management
- Implementing accountability at all levels from the White House to the front lines within each agency
- Creating a sustainable culture of engagement between employees and their supervisors
- Improving supervisor assessment, selection, development, and training

You and your management team should use these as interrelated processes that, over time, will improve employee and organizational performance.

What Will Be My Approach?

You should engage labor within your department/agency in a positive, collaborative way and treat the union’s representatives as informed partners. If, instead, you or your management team consider the union to be an outside constituency, you may create a combative labor-management relationship with varying degrees of conflict, a divided workforce, and an ongoing need for third-party dispute resolution. You choose the approach that will produce the most favorable results.

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