

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE INSTRUCTION 51-906

25 SEPTEMBER 2014



Law

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

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This Instruction implements DoDI 1354.01, *DoD Policy on Organizations that Seek to Represent or Organize Members of the Armed Forces in Negotiation or Collective Bargaining* and AFPD 51-9, *Civil Law for Individuals*. It provides guidance and procedures for responding to individuals and organizations on a military installation 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 Air Force civilian and military personnel (including Air Reserve Component personnel) with respect to representational and organizational activities. This Instruction also applies to Air National Guard personnel performing duty or training in any Title 32 status. Military members subject to the Uniform Code of Military Justice (UCMJ) (i.e., in Title 10 status), who violate the prohibitions, or fail to comply with the mandatory requirements, as applicable, in paragraphs 2.1 through 2.5.2 of this Instruction may be prosecuted under Article 92, UCMJ, as well as any other applicable articles of the UCMJ or provisions of federal law. Violations may result in administrative disciplinary action in addition to otherwise applicable criminal or civil sanctions for violations of related laws. Violations by civilian employees (to include Air Reserve Component Military Technician employees) may result in administrative disciplinary action without regard to otherwise applicable criminal or civil sanctions for violations of related laws. Any organization may supplement this publication: Major commands (MAJCOM), field operating agencies (FOA), and direct reporting units (DRU) notify AF/JAA; other organizations notify the next higher headquarters. The authorities to waive wing/unit level requirements in this publication are identified with a Tier (“T-0, T-1, T-2, or T-3”) number following the compliance statement. See AFI 33-360, *Publications and Forms Management*,

Table 1.1 for a description of the authorities associated with the Tier numbers. Compliance waiver requests must be submitted through the chain of command to the appropriate tier waiver approval authority. All other waivers will be submitted to the publication OPR. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFMAN 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule. Refer recommended changes and conflicts between this and other publications to AF/JAA, 1420 Air Force Pentagon, Washington DC 20330-1420, on Air Force (AF) Form 847, Recommendation for Change of Publication.

SUMMARY OF CHANGES

This document has been substantially revised and must be completely reviewed. Major changes include extending the applicability of the AFI to Reserve and Air National Guard personnel; tiering the publication; removing the prohibition on recruitment; eliminating redundancies; and updating terminology. Paragraph 2.4.3.1 distinguishes between activities of traditional veterans organizations and those of military labor organizations, and paragraph 4.5.4 changes the required reporting method for requests or attempts to engage in activities prohibited by this Instruction. Table 1 was modified to delineate between actions taken by the unit and installation commanders, and to require installation commanders to report solicitations made through the U.S. mail. Attachment 1 was revised to include a list of references, and Attachment 2 was changed to reflect the new requirements found in paragraph 4.5.4.

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 conditions 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: Failure to obey any prohibition or failure to comply with mandatory requirements in paragraphs 2.1 through 2.5.2 is a violation of Article 92, UCMJ.

2.1. **General Prohibitions.** Military members and civilian employees 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. Prohibited Membership or Enrollment in Certain Organizations:

2.2.1. Military members, knowing of the activities or objectives of a particular military labor organization, may not:

2.2.1.1. Join or maintain membership in such organization; or

2.2.1.2. Attempt to enroll or enroll any other member of the Armed Forces as a member of such organization.

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

2.3. Negotiation or Collective Bargaining.

2.3.1. No person on a military installation and no military member may negotiate or bargain, or attempt through any coercive act to negotiate or bargain, with any member of the Armed Forces or civilian employee, on behalf of members of the Armed Forces, concerning the terms or conditions of service of such members.

2.3.2. Military members and civilian employees will not engage in negotiation or collective bargaining on behalf of the United States concerning terms or conditions of military service of members of the Armed Forces with any person who represents or purports to represent members of the Armed Forces.

2.3.3. For Air Reserve Component Military Technician employees, the military aspects of technician employment and policies, procedures, and conditions of employment related to or affecting those military aspects will not be subject to collective bargaining.

2.4. Strikes and Other Concerted Activities. No person on a military installation, and no military member may organize or attempt to organize, or participate in, any strike, picket, march, demonstration, or other similar form of concerted action (e.g., distributing leaflets, making speeches) involving members of the Armed Forces that is directed against the Government of the United States and that is intended to induce any civilian employee or member of the Armed Forces to:

2.4.1. Negotiate or bargain with any person concerning the terms or conditions of service of any member of the Armed Forces.

2.4.2. Recognize any military labor organization as a representative of individual military members in connection with a member's complaint or grievance arising out of the terms or conditions of the member's service.

2.4.3. Make any change with respect to the terms or conditions of service of individual members of the Armed Forces.

2.4.3.1. This provision is not intended to prohibit the mere attendance at speeches hosted by traditional veterans' organizations, whose lobbying and public affairs objectives and efforts on behalf of retired military personnel, may have an ancillary impact on military pay and benefits for active duty personnel.

2.5. Improper Use of a Military Installation.

2.5.1. No person may use any military installation to meet, march, picket, demonstrate or for any other similar activity (e.g., distributing leaflets, making speeches, etc.) for the purpose of engaging in any activity prohibited by this Instruction.

2.5.2. No civilian employee or military member may permit or authorize the use of any military installation for any meeting, march, picketing, demonstration, or other similar activity (e.g., distributing leaflets, making speeches, etc.) which is for the purpose of engaging in any activity prohibited by this Instruction.

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.

3.2.1. Present complaints or grievances over terms or conditions of military service through established military channels, including the Office of the Inspector General.

3.2.2. Petition Congress for redress of grievance or communicate with any member of Congress.

3.2.3. Seek or receive information or counseling from any source.

3.2.4. 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.

3.2.5. Belong to lawful organizations other than military labor organizations.

3.2.6. Take any other administrative action to seek 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 councils, committees, or organizations for the purpose of improving conditions or communications at the Air Force installation involved.

4. Responsibilities.

4.1. AF/JAA and AF/A1P are the primary Air Staff contacts for matters related to this Instruction. AF/JAA and AF/A1P will be information addressees on all correspondence and messages related to this Instruction.

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 about 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 personnel assist installation commanders in identifying incidents or conduct prohibited by this Instruction.

4.4. Unit Commanders take actions consistent with this Instruction and DoDI 1354.01. See Table 1 for situational guidance. (T-0)

4.5. Installation Commanders.

4.5.1. Enforce the prohibitions of paragraphs 2.1. through 2.5.2. of this Instruction. See Table 1 for situational guidance. (T-0)

4.5.2. 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. (T-0)

4.5.3. Publicize information through command channels when an organization has been determined to be a military labor organization which inform military members:

4.5.3.1. That the identified organization poses a clear danger to discipline, loyalty, or obedience to lawful orders, (T-0) and

4.5.3.2. That knowing, active membership in that organization by a military member, with the intent to promote conduct prohibited by this Instruction, is not permitted. (T-0)

4.5.4. Immediately report through intermediate commanders to their MAJCOM commander, all incidents concerning requests for permission or attempts to engage in activities prohibited by this Instruction (See Table 1). Provide information copies to AF/JAA and AF/A1P. AF/A1P will immediately forward the report to SAF/MR through AF/A1 for transmission to the SECAF and SECDEF in accordance with DoDI 1354.01. See the minimum required reporting information at Attachment 2. (T-0)

4.6. 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 unit commander or installation commander | the installation commander |
| 1 | an individual or organization claims to represent military members of the Armed Forces | the purpose is for negotiation or collective bargaining over terms or conditions of | advises the individual or organization that he or she is prohibited from negotiating or collectively bargaining over terms or | reports the incident |

| | | military service | conditions of military service | |
|---|---|--|---|---|
| 2 | an individual or organization requests permission to negotiate or collectively bargain on behalf of military members | | denies the request | reports the incident |
| 3 | an individual or organization attempts to negotiate or collectively bargain on behalf of military members of the Armed Forces | | takes disciplinary or administrative action, when appropriate, against those who engaged in prohibited activity | reports the incident |
| 4 | an organization that claims to represent military members of the Armed Forces 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 Armed Forces 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 and takes disciplinary or administrative action, when appropriate, against those who engaged in prohibited activity | reports the incident |
| 6 | an individual or organization pickets for the purpose of causing or coercing military members of the Armed Forces to engage in a strike, slowdown, work stoppage or other collective job-related action | | takes disciplinary or administrative action, when appropriate, against those who engaged in prohibited activity | takes necessary action to stop such activity on base and 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 | informs the installation commander | denies the individual or organization access to the base and/or denies permission to conduct such activities and reports the incident |
| 8 | | the organization proposes or holds itself out as proposing to engage in negotiation or collective bargaining on behalf of military members of the Armed Forces | | |
| 9 | 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, reviews the literature for violations of this Instruction or AFI 51-903, takes disciplinary or administrative action, when appropriate, against those who engaged in prohibited activity | reports the incident. |
| | | permission to distribute was previously denied | takes disciplinary or administrative action, when appropriate, against those who engaged in prohibited activity | halts further distribution, confiscates available literature, removes violators from the base, and reports the incident |
| 10 | an individual or organization distributes literature soliciting membership or promoting | distribution is through the US mail | takes no action | reports the incident |

| | | | | |
|----|--|--|--|-----------------|
| | an organization which purports or proposes to represent military members in negotiation or collective bargaining | | | |
| 11 | 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 and 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 | takes no action |

CHRISTOPHER F. BURNE
 Lieutenant General, USAF
 The Judge Advocate General

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

Title 5, *United States Code*, Section 2105

Title 5, *United States Code*, Section 3101

Title 10, *United States Code*, Section 976

Title 10, *United States Code*, Section 10216

Title 32, *United States Code*, Section 709

DoD Instruction 1354.01, *DoD Policy on Organizations that Seek to Represent or Organize Members of the Armed Forces in Negotiation or Collective Bargaining*, January 19, 2007

DoD Directive 5200.27 *Acquisition of Information Concerning Persons and Organizations not Affiliated with the DoD*, January 7, 1980

AFPD 51-9, *Civil Law for Individuals*, 5 November 1993

AFI 51-903, *Dissident and Protest Activities*, 1 February 1998

AFI 71-101, Volume 1, *Criminal Investigations*, 1 December 1999

AFMAN 33-363, *Management of Records*, 1 March 2008

Adopted Forms

AF Form 847, *Recommendation for Change of Publication*.

Abbreviations and Acronyms

AF—Air Force

AFI—Air Force Instruction

AFMAN—Air Force Manual

AFPD—Air Force Policy Directive

DOD—Department of Defense

DODI—Department of Defense Instruction

DRU—Direct Reporting Unit

FOA—Field Operating Agency

MAJCOM—Major Command

SECAF—Secretary of the Air Force

SECDEF—Secretary of Defense

UCMJ—Uniform Code of Military Justice

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, facilities, aircraft, and other property controlled by the Department of the Air Force. On Joint Bases, this Instruction will apply when the Air Force is the supporting component.

Civilian Employee—An employee as defined in 5 U.S.C. 2105. This includes Air Reserve Component Military Technician employees who may be wearing a military uniform.

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 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.

Member of the Armed Forces—A member of any uniformed service in a Title 10 status, to include members of a reserve component. Additionally, for purposes of this Instruction, the term includes members of the Air National Guard performing duty or training in any Title 32 status.

Military Member—A member of the Air Force, to include members of an air reserve component serving on active duty and members of the Air National Guard performing duty or training in any Title 32 status.

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.

Attachment 2**SAMPLE REPORT**

A2.1. Reports made under paragraph 4.5.4 should at a minimum include the information described in the table below.

A2.2. Review DoDI 1354.01 for requirements to report actions to SECAF and SECDEF.

Figure A2.1. Sample Report.

TO: Intermediate Commanders and [MAJCOM, FOA, or DRU] Commander

CC: AF/A1P, AF/JAA

SUBJECT: Military Union Incident

1. Name of installation
2. Type of incident (request or attempt for negotiation or collective bargaining, strike or other concerted action, distribution of literature, active membership, or other prohibited activity.)
3. Name(s) of individual(s) or organization
4. Narrative statement of incident
5. Brief summary of constitution, bylaws, statement of purpose submitted by the individual or organization, or other information and the source.
6. Summary of commander's action

Attachment 3

GUIDELINES FOR MAKING ADMINISTRATIVE DETERMINATIONS

A3.1. 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 Instruction, 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.

A3.2. 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.

A3.3. Gather any information about persons and organizations not affiliated with the Department of Defense needed to make the determinations required by this Instruction in strict compliance with the provisions of DoDD 5200.27, *Acquisition of Information Concerning Persons and Organizations not Affiliated with the DoD*, January 7, 1980, and AFI 71-101, Volume 1, *Criminal Investigations*, 1 December 1999. Counterintelligence or security investigative personnel shall not acquire this information. The organization itself shall be considered a primary source of information.