



Tips and Tidbits
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What is an Unfair Labor Practice? Under what circumstances might it occur and how may it be prevented?

Unfair Labor Practices (ULPS) occur when prohibited [personnel] actions/practices take place. Unfair labor practices are a violation of the Federal Service Labor-Management Relations Statute, Title 5, United States Code, Chapter 71. While anyone can file a ULP, an employee, the Union, or a management official, since agency management makes decisions on personnel policies and practices and is primarily responsible for administering the labor-management agreement, the chances for agency management to make an error or commit a violation is greater than that for the union. As a result, it is not surprising that most ULP charges are filed against agency management.

Notwithstanding the fact that most unfair labor practices are caused by a simple mistake or misunderstanding as opposed to willful misconduct, knowing what constitutes a ULP can help prevent the circumstances that lead to embarrassing, costly, and time consuming complaints. Under 5 USC 7116, it is considered a ULP for an agency to:

- interfere with, restrain, or coerce any employee in the exercise by the employee of any right;
- encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;
- sponsor, control or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities, if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;
- discipline or otherwise discriminate against an employee because the employee has filed a grievance, complaint, affidavit, or petition or has given any information or testimony under this chapter;
- refuse to consult or negotiate in good faith with a labor organization as required;
- fail or refuse to cooperate in impasse procedures and impasse decisions;
- enforce any rule or regulation (other than a rule or regulation addressing prohibited personnel practices) which is in conflict with any applicable

- collective bargaining agreement if the agreement was in effect before the date the rule or regulations was prescribed; or
- otherwise fail or refuse to comply with any provision of the legislation

Under the same statute, the following actions are considered a ULP by a labor organization:

- interfere with, restrain, or coerce any employee in the exercise by the employee of any right;
- cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right;
- coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity;
- discriminate against an employee with regard to the terms of conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;
- refuse to consult or negotiate in good faith with a labor organization as required;
- fail or refuse to cooperate in impasse procedures and impasse decisions as required;
- to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or to condone any activity by failing to take action to prevent or stop such activity;
- otherwise fail or refuse to comply with any provision of the legislation.

By fostering positive labor-management relations and an understanding of the statutory rights of the individual, the union, and management most ULPs can be avoided.

For more information on unfair labor practices, please contact your servicing Human Resources Specialist for assistance.

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